



Convention on the Rights of the Child

Committee on the Rights of the Child

Fifty-ninth session

16 January–3 February 2012

Consideration of reports submitted by States parties under article 8, paragraph 1, of the Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict

Concluding observations: Azerbaijan

1. The Committee considered the initial report of Azerbaijan (CRC/C/OPAC/AZE/1 and Add.1) at its 1672nd and 1673rd meetings (see CRC/C/SR.1672 and 1673), held on 17 and 18 January 2012, and adopted at its 1697th meeting (see CRC/C/SR.1697), held on 3 February 2012, the following concluding observations.

I. Introduction

2. The Committee welcomes the submission of the State party's initial report and its written replies to the list of issues (CRC/C/OPAC/AZE/Q/1/Add.1). While appreciating the constructive dialogue with the high-level delegation of the State party, the Committee regrets that the delegation did not include representation from the Ministry of Defence, which was involved in the preparation of the report.

3. The Committee further reminds the State party that the present concluding observations should be read in conjunction with the concluding observations on the State party's combined third and fourth periodic report under the Convention (CRC/C/AZE/CO/3-4) as well as those on the initial report under the Optional Protocol on the sale of children, child prostitution and child pornography (CRC/C/AZE/OPSC/CO/1), adopted on 3 February.

II. General observations

Positive aspects

4. The Committee notes with appreciation:

(a) The declaration made at the time of ratification that the minimum age for conscription into the armed forces of the State party is 18 years;

(b) The adoption of Laws No. 236 and No. 286-IIQ of the Parliament of Azerbaijan of 2 April 2002, which incorporate numerous elements of the Optional Protocol into the national legislation of the State party.

III. General measures of implementation

Legal status

5. While appreciating that the Optional Protocol is directly applicable in the State party's legal system and the priority that international agreements have over national legislation in the event of a contradiction, the Committee is concerned that there are provisions of the Optional Protocol that have yet to be fully incorporated into the State party's domestic legislation.

6. Pursuant to article 6 of the Optional Protocol, the Committee urges the State party to undertake a review of its domestic legislation with a view to fully incorporate the provisions of the Optional Protocol into its domestic legislation.

Coordination

7. The Committee notes the information submitted by the State party on the 11 different entities involved in the implementation of the Optional Protocol, and is concerned that the State party's current system lacks effective coordination between its two principal mechanisms for child rights: the National Commission on Minors and the State Committee on Family, Women and Children's Issues. The Committee further notes that these mechanisms are not provided with adequate clarity on their respective mandates. Furthermore, while noting that the State Committee for Family, Women and Children's Issues has proposed the establishment of a coordination mechanism on children's rights within the Cabinet of Ministers to coordinate and monitor the implementation of the

Convention, the Committee is concerned that there has been no further progress in relation to this proposal.

8. The Committee recommends that the State party expeditiously take measures to provide distinct roles for its National Commission on Minors and the State Committee on Family, Women and Children's Issues . Furthermore, it recommends that the State party consider empowering the mechanisms with adequate authority vis-à-vis the State entities and ministries they coordinate and ensure that those respective mandates are supported by a technically competent organ for the coordination of their activities relating to the implementation of the Convention. The Committee further recommends that the State party designate a government entity or mechanism to take on the overarching responsibility of implementing the Optional Protocol in collaboration with the principal entity /entities for coordinating the State party's implementation of the Convention , and ensure that such government entity or mechanism is provided with an adequately clear mandate and allocation of human, technical and financial resources.

Dissemination and awareness-raising

9. The Committee notes that the text of the Optional Protocol has been published on the website of the Ministry of Justice. However, it regrets that no further measures have been taken to promote and disseminate information on the Optional Protocol among the public, children and relevant professional groups working with or for children.

10. The Committee recommends that the State party undertake practical measures to increase knowledge and awareness of the Optional Protocol. In doing so, it may wish to consider producing and disseminating additional information material on the Optional Protocol.

Training

11. While appreciating that the State party organizes and conducts training on international humanitarian law for its military personnel, the Committee is concerned that no specific training on the Optional Protocol is included in the curricula for military and law enforcement personnel.

12. The Committee recommends that the State party include a specific module on the practical application of the Optional Protocol in the training of its military and law enforcement personnel.

IV. Prevention

Voluntary recruitment

13. Notwithstanding the State party's statement that its legislation does not envisage the involvement of persons under the age of 18 in military service, the Committee is concerned at the lack of an express prohibition on this. Furthermore, the Committee notes that the State party's declaration upon ratification of the Optional Protocol states that "persons, who are meeting the defined requirements of the military service, may voluntarily enter and be admitted in age of 17 the active military service of the cadets military school", thus allowing situations in which persons under the age of 18 could be involved in armed conflict.

14. Pursuant to article 2 of the Optional Protocol, the Committee urges the State party to enact legislation which expressly prohibits the involvement of persons under the age of 18 , including those enrolled in a military school, from being involved in military service. The Committee further recommends that the State party consider withdrawing its declaration under article 3 of the Optional Protocol.

Military schools

15. The Committee is concerned that the use of firearms is a mandatory part of the curricula in military schools. Also, while noting the State party's assurance that children attending military schools have access to complaints mechanisms at these schools and to the Human Rights Ombudsman, the Committee is concerned that the complaints mechanisms at these schools are not adequately independent and that there may be limited awareness that the Human Rights Ombudsman's mandate also includes children attending military schools.

16. The Committee recommends that the State party ensure a clear prohibition on training in the use of firearms in military schools for all persons under the age of 18. The Committee also recommends that the State party establish accessible and independent complaints and investigation mechanisms for children attending military schools. The Committee further recommends that awareness of these mechanisms as well as the right of children attending these schools to also make complaints to the Human Rights Ombudsman on potential violations that occur in military schools be included as a mandatory part of the induction and training syllabus for military cadets under the age of 18.

Human rights and peace education

17. While noting with appreciation that the military schools in the State party incorporate the subjects of human rights and freedoms, as well as international humanitarian law, into their curricula, the Committee regrets that human rights education, including on the Optional Protocol, is not specifically incorporated as a mandatory part of the primary and secondary school curricula or in the teachers' training programme. The Committee is also concerned at the limited awareness and knowledge of the Convention and its Optional Protocols.

18. With reference to its general comment No. 1 (2001) on the aims of education, the Committee recommends that the State party include human rights and peace education in the curricula of all schools, including military schools, with

special reference to the Optional Protocol. The Committee further recommends that the State party consider and adopt a plan of action for the second phase (2010-2014) of the World Programme for Human Rights Education, focusing on human rights education and on human rights training for teachers and educators, law enforcement officials and military personnel (see A/HRC/15/28).

V. Prohibition and related matters

Criminal legislation and regulations in force

19. The Committee takes note of the information provided by the delegation that domestic legislation does not envisage the recruitment of persons under the age of 18 into the armed forces or by non-State armed groups. Nevertheless, the Committee is concerned that there are no specific provisions in the State party's legislation explicitly prohibiting and criminalizing the recruitment of a person under the age of 18 or any other violation of the provisions of the Optional Protocol.

20 . In order to strengthen the national and international measures for the prevention of the recruitment of children by armed forces or armed groups and their use in hostilities, the Committee recommends that the State party:

(a) Explicitly prohibit by law the violation of the provisions of the Optional Protocol regarding the recruitment and involvement of children in hostilities;

(b) Ensure that military codes, manuals and other military directives are in accordance with the provisions and the spirit of the Optional Protocol.

Jurisdiction

21. While noting the State party's exercise of extraterritorial jurisdiction, the Committee is concerned at the application of this being limited to international crimes specified in article 12.3 of its Criminal Code, which does not include all of the offences under the Optional Protocol.

22. The Committee recommends that the State party take prompt legal measures to ensure that crimes under the Optional Protocol are included in its extraterritorial jurisdiction under the Criminal Code. It further calls upon the State party to consider ratifying the Rome Statute of the International Criminal Court.

VI. Protection, recovery and reintegration

Measures adopted to protect the rights of child victims

23. The Committee regrets the lack of information in the State party report concerning refugees and asylum-seeking children who have fled armed conflict, including former child soldiers. The Committee is concerned about the situation of asylum-seeking children who are under a different categorization than refugee children, and that there have been asylum-seeking children who may have been in need of protection, recovery and reintegration support during the time when the Optional Protocol has been in force. The Committee is further concerned about the lack of procedures aimed at the identification of such children who have been victims of crimes under the Optional Protocol and the lack of awareness in the State party about the need for such identification.

24. The Committee recommends that the State party pay special attention to identifying refugee and asylum-seeking children who have been subject to conflict-related trauma and displacement and provide them with special support and assistance, including psychological treatment. It further calls upon the State party to take all necessary measures to ensure that all children, including those who may not benefit from refugee status, be entitled to a special protection status if there is any danger that they might become victims of crimes under the Optional Protocol upon return to their home countries.

VII. International assistance and cooperation

25. The Committee recommends that the State party continue and strengthen its cooperation with the International Committee of the Red Cross and with the Special Representative of the Secretary-General for Children and Armed Conflict, and that it explore increased cooperation with the United Nations Children's Fund (UNICEF) and other United Nations entities in the implementation of the Optional Protocol.

VIII. Follow-up and dissemination

26. The Committee recommends that the State party take all appropriate measures to ensure the full implementation of the present recommendations by, inter alia, transmitting them to relevant ministries, including the Ministry of Defence, and other relevant government entities at both governorate and district levels, for appropriate consideration and further action.

27. The Committee recommends that the initial report and written replies submitted by the State party and the related concluding observations adopted by the Committee be made widely available, including (but not exclusively) through the Internet, to the public at large, civil society organizations, youth groups, professional groups and children, in order to generate debate and awareness of the Optional Protocol, its implementation and monitoring.

IX. Next report

28. In accordance with article 8, paragraph 2, the Committee requests the State party to include further information on the implementation of the Optional Protocol and the present concluding observations in its next periodic report under the Convention on the Rights of the Child, in accordance with article 44 of the Convention.