

**Convention on the Rights of the Child**

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COMMITTEE ON THE RIGHTS OF THE CHILD**CONSIDERATION OF REPORTS SUBMITTED BY STATES PARTIES UNDER ARTICLE 8 (1) OF THE OPTIONAL PROTOCOL TO THE CONVENTION ON THE RIGHTS OF THE CHILD ON THE INVOLVEMENT OF CHILDREN IN ARMED CONFLICT****Initial reports of States parties due in 2005****KAZAKHSTAN**

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This is the first report pursuant to the ratification by Kazakhstan on 4 July 2001 of the Optional Protocol to the United Nations Convention on the Rights of the Child on the involvement of children in armed conflict.

Introduction

1. This report on the implementation of the Optional Protocol was prepared by the Ministry of Education and Science of the Republic of Kazakhstan, with the participation of interested ministries and departments. The report, and the anticipated recommendations of the Committee on the Rights of the Child, will be disseminated by the aforementioned State bodies.

2. The Optional Protocol to the United Nations Convention on the Rights of the Child on the involvement of children in armed conflict, ratified by Kazakhstan, takes precedence over domestic legislation. Article 4, paragraph 3, of the Constitution of Kazakhstan stipulates that "international treaties ratified by the Republic shall take precedence over its laws and be directly applicable, except in cases where the application of an international treaty requires the promulgation of a law".

3. The following bodies are competent to apply the Optional Protocol:

Ministry of Education and Science;

Ministry of Foreign Affairs;

Ministry of Internal Affairs;

Ministry of Labour and Social Welfare;

Ministry of Health;

Ministry of Defence;

Office of the Procurator-General;

National Commission for Family and Women's Affairs in the office of the President.

4. Information about the provisions contained in the Optional Protocol has been disseminated among broad sectors of Kazakh society, including parents, through the media and by means of international and national conferences, round tables, seminars and training courses. There are State and non-governmental organizations in Kazakhstan with adequate competence in matters relating to the provisions of the Optional Protocol. The mechanisms and procedures for periodic evaluation of the implementation of the Optional Protocol have not yet been fully developed. The provisions of the Optional Protocol are implemented in Kazakhstan by the Ministries of Defence, Internal Affairs, Education and Science, and Labour and Social Welfare.

Article 1

States Parties shall take all feasible measures to ensure that members of their armed forces who have not attained the age of 18 years do not take a direct part in hostilities.

5. The Children's Rights Act of 8 August 2002 (No. 345-II) sets out measures barring the participation of children who have not

attained the age of 18 years in military actions:

“ Article 41. Prohibition of the participation of children in military actions

It is prohibited to enlist children for participation in military actions or armed conflicts, or to create children’s military units.”

Article 2

States Parties shall ensure that persons who have not attained the age of 18 years are not compulsorily recruited into their armed forces.

6.The Constitution provides for compulsory military service for the purposes of preparing the population to defend the Republic:

“ Article 36

“1.The defence of the Republic of Kazakhstan is the sacred duty and obligation of each of its citizens.

“2.Citizens of Kazakhstan shall perform military service in the form and in accordance with the procedures established by law.”

7.In accordance with the Military Obligation and Military Service Act of 8 July 2005 (No. 74-III), citizens aged between 18 and 27 years of age who do not have the right to deferment or exemption are liable for conscription to the Kazakh army in the numbers required to staff the armed forces, other forces and military units. The unlawful conscription of citizens for a term of military service is an offence under the Code of Administrative Offences.

“ Article 23. Conscription of citizens for a term of military service

“The conscription of citizens for a term of military service is carried out on the basis of a decree by the President and a decision by the Government. Citizens aged between 18 and 27 years who do not have the right to deferment or exemption are liable to be conscripted to military service.”

8.In accordance with the Act of 20 December 1991 (as amended by Presidential decree No. 2477 of 3 October 1995), the documents used to determine age for the purposes of compulsory military service are the identity cards or passports of citizens of Kazakhstan.

Article 3

1. States Parties shall raise the minimum age for the voluntary recruitment of persons into their national armed forces from that set out in article 38, paragraph 3, of the Convention on the Rights of the Child, taking account of the principles contained in that article and recognizing that under the Convention persons under 18 are entitled to special protection.

2. Each State Party shall deposit a binding declaration upon ratification of or accession to this Protocol that sets forth the minimum age at which it will permit voluntary recruitment into its national armed forces and a description of the safeguards that it has adopted to ensure that such recruitment is not forced or coerced.

3. States Parties that permit voluntary recruitment into their national armed forces under the age of 18 shall maintain safeguards to ensure, as a minimum, that:

(a) Such recruitment is genuinely voluntary;

(b) Such recruitment is done with the informed consent of the person’s parents or legal guardians;

(c) Such persons are fully informed of the duties involved in such military service;

(d) Such persons provide reliable proof of age prior to acceptance into national military service.

4. Each State Party may strengthen its declaration at any time by notification to that effect addressed to the Secretary-General of the United Nations, who shall inform all States Parties. Such notification shall take effect on the date on which it is received by the Secretary-General.

5. The requirement to raise the age in paragraph 1 of the present article does not apply to schools operated by or under the control of the armed forces of the States Parties, in keeping with articles 28 and 29 of the Convention on the Rights of the Child.

9.The right of children to life, personal freedom and the inviolability of their dignity and private life is regulated by the Children’s Rights Act of 8 August 2002 (No. 345-II).

“ Article 10. The right of the child to life, personal freedom and the inviolability of his or her dignity and private life

“1.Every child has the right to life, personal freedom and the inviolability of his or her dignity and private life.

“2.The State shall guarantee the personal inviolability of the child, shall ensure his or her protection from physical and/or psychological violence, cruel, brutal or degrading treatment, acts of a sexual nature, recruitment into criminal activity and the perpetration of anti-social activities and other activities that infringe the human and civil rights and freedoms that are enshrined in the Constitution.”

10. Matters relating to military obligations and military service by the citizens of Kazakhstan are regulated by the Military Obligation and Military Service Act of 8 July 2005 (No. 74-III).

11. Kazakh legislation sets 18 as the minimum age for conscription into military service and lays down that the unlawful conscription of citizens for military service is an offence.

12. It is not necessary to send the relevant notification to the Secretary-General of the United Nations at this time.

13. In accordance with Presidential decree No. 3049 of 1 July 1996 "On the formation of a Ministry of Defence Cadet Corps and Government decision No. 309 of 27 March 1999 on "Matters regarding the establishment of the 'Zhas Ulan' national school named after General S.K. Nurmagambetov as a State institution", educational institutions for children aged 11 years and over operate under the control of the armed forces. The main tasks of these institutions are: to provide free compulsory general secondary education, and intensive military training; to instil respect for human rights and fundamental freedoms; to develop children's personalities, talents, skills and physical capacities; and to prepare them for a conscientious life in the spirit of understanding of the world, tolerance and equality.

Article 4

1. Armed groups that are distinct from the armed forces of a State should not, under any circumstances, recruit or use in hostilities persons under the age of 18 years.

2. States Parties shall take all feasible measures to prevent such recruitment and use, including the adoption of legal measures necessary to prohibit and criminalize such practices.

3. The application of the present article under this Protocol shall not affect the legal status of any party to an armed conflict.

14. Legal measures are in place in Kazakhstan prohibiting the enlistment of persons under the age of 18 years or their use as mercenaries. Chapter 4 of the Criminal Code of Kazakhstan, entitled "Crimes against the peace and security of humanity", provides the basis for criminal proceedings in such cases:

" Article 162. Activities involving mercenaries

"1. Recruitment, training, financing or other material support of a mercenary or the use of a mercenary in an armed conflict or military action shall be punishable by deprivation of liberty for between four and eight years.

"2. The same acts, committed by a person taking advantage of his or her official position, or in respect of a minor, shall be punishable by deprivation of liberty for between 7 and 15 years, with or without confiscation of property.

"3. Participation by a mercenary in an armed conflict or military action shall be punishable by deprivation of liberty for between three and seven years.

"4. If it causes human fatalities or other grave consequences, the act as described in paragraph 3 of this article shall be punishable by deprivation of liberty for between 10 and 20 years with confiscation of property or by life imprisonment with confiscation of property."

15. No such problem arises at the current time.

Article 5

Nothing in the present Protocol shall be construed as precluding provisions in the law of a State Party or in international instruments and international humanitarian law that are more conducive to the realization of the rights of the child.

16. The Children's Rights Act of 8 August 2002 (No. 345-II) was adopted for the purpose of protecting the rights and interests of children in Kazakhstan. The Act regulates matters relating to realization of the basic rights and interests of children as guaranteed by the United Nations Convention on the Rights of the Child and the Constitution of Kazakhstan, on the basis of the following priorities: preparing children for full participation in society, developing in them socially significant and creative activity, instilling in them strong moral qualities, patriotism and citizenship, and forming a national identity on the basis of the shared human values of global civilization.

17. In his message of 18 February 2005 to the people of Kazakhstan, entitled "Kazakhstan on the path to faster economic, social and political modernization", the President set out strategic orientations for improving the situation of children. In particular: "the provision of medicines to children and adolescents registered at clinics free of charge, and in outpatient clinics on preferential terms, an increase in the level of bursaries for university students and pupils at vocational secondary education institutions and an increase in the number of educational grants are important strategic questions in the construction of a society that respects the individuality and freedom of every person, looks after those who are not able to look after themselves, and protects mothers and children".

Article 6

1. Each State Party shall take all necessary legal, administrative and other measures to ensure the effective implementation and enforcement of the provisions of this Protocol within its jurisdiction.

2. States Parties undertake to make the principles and provisions of the present Protocol widely known and promoted by appropriate means, to adults and children alike.

3. States Parties shall take all feasible measures to ensure that persons within their jurisdiction recruited or used in hostilities contrary to this Protocol are demobilized or otherwise released from service. States Parties shall, when necessary, accord to these persons all appropriate assistance for their physical and psychological recovery and their social reintegration.

18. Work is being done in Kazakhstan to disseminate and publicize the provisions of the Optional Protocol. The provisions of the Optional Protocol are currently taught in schools as part of a subject called “Basics of everyday living and safety”, and there are special topics on the prevention of emergencies and the action to take should they occur and on the prevention of terrorism and religious extremism, such as “Terrorism as a contemporary world problem”, “Religious and extremist organizations and their links to terrorism” and “What to do in an emergency”. Work carried out to disseminate and publicize the Optional Protocol has included discussions and round tables (joint discussions) with pupils and their parents, with the involvement of representatives of judicial bodies, the courts, law enforcement agencies, famous public figures, and art and culture workers. At an international forum entitled “The Eurasian Circle”, which took place in February 2005 at the Baldauren National Education and Rehabilitation Centre in Aqmola oblast, more than 300 young journalists from the various regions of the country exchanged their experience in attracting the attention of society to the problems of children and adolescents. At that forum, the focused debates on topical issues concerning protection of the rights of children and adolescents and introduction of the principles of peace and non-violence into the social consciousness in order to prevent the tragedies of armed conflicts and international terrorism enjoyed organizational and information support from the media of Kazakhstan, and the debate was continued in the national publications *Egemen Kazakhstan*, *Kazakhstanskaya Pravda*, *Novoye Pokoleniye*, *Ekspress-K*, *Novosti Nedely*, *Argumenty i Fakty* and others. The newspaper *Novoye Pokoleniye* has a special section called *Bolshaya Peremena*, which covers issues concerning violations of children’s rights, trafficking in children, the situation in family-type children’s homes, children’s and adolescents’ summer holidays, etc. There are regular information and educational programmes on Kazakh radio - *Alakai*, *Balalyk Shakka Sayakhat*, *Keshki Ertegi*, *Pochemuchka*, *Eto tsely mir*, etc. National television channels have several long-running programmes, *Kontekst* and *Sobstvennoye Mnenie*, in which issues relating to improving the situation of children, peace and security are widely discussed. The Ministries of Education and Science and of Culture, Information and Sport are working to establish and strengthen the legal, economic and administrative conditions to enable children, adolescents and young people to become good citizens and play a full role in society in the framework of the State youth policy. It has become traditional to hold all manner of national and regional competitions and championships, such as “Symbols of Openness, Peace and Hope”, “I am a Citizen of the Republic of Kazakhstan” and “Let’s preserve peace on our planet”. Through collaborative work with interested bodies, various public associations and parents, the posts of deputy director for education, psychologist, social teacher and school inspector have been introduced in all State educational institutions, in order to ensure that the rights and interests of children are protected. This has facilitated awareness-raising activities not just among pupils and young people, but among parents too, through the holding of conferences and lectures. In many regions of Kazakhstan “Parental universities”, “Children’s social centres”, “Forums on family education” and “telephone hotlines” have been organized to uphold the rights of children in practice in accordance with the United Nations Convention on the Rights of the Child, and to increase awareness and knowledge of the law among the child and adult population of the country. Work is being actively carried out in educational establishments to prevent the spread of fears and prejudices among representatives of different ethnicities and to encourage young people to participate in activities to build peace and friendship between peoples.

19. Article 4, paragraph 3, of the Constitution provides that “international treaties ratified by the Republic shall take precedence over its laws and be directly implemented except in cases when the application of an international treaty shall require the promulgation of a law”.

Article 7

1. States Parties shall cooperate in the implementation of the present Protocol, including in the prevention of any activity contrary to the Protocol and in the rehabilitation and social reintegration of persons who are victims of acts contrary to this Protocol, including through technical cooperation and financial assistance. Such assistance and cooperation will be undertaken in consultation with concerned States Parties and relevant international organizations.

2. States Parties in a position to do so shall provide such assistance through existing multilateral, bilateral or other programmes, or, inter alia, through a voluntary fund established in accordance with the rules of the General Assembly.

20. Kazakhstan is troubled by the massive impact of armed conflicts on children and condemns attacks on targets such as kindergartens, schools and hospitals. The protection of children during times of armed conflict is especially relevant today. Kazakhstan is cooperating actively with the International Organization for Migration to provide legal assistance and urgent help to children who are victims of armed conflict. According to statistics from the Ministry of Labour and Social Welfare, more than 600 refugees were registered in the country in 2005, 248 of them children. Kazakhstan is taking measures to protect child refugees and to afford them the help they need. For example, a kindergarten and school for refugee children from Afghanistan has been opened in the city of Almaty.

“Constitution of the Republic of Kazakhstan, section 2, The individual and the citizen. Article 12

“1. Human rights and freedoms in Kazakhstan shall be recognized and guaranteed in accordance with this Constitution.

“2. Human rights and freedoms shall belong to everyone from the time of their birth. They shall be recognized as absolute and inalienable. They shall determine the content and application of laws and other regulatory acts.

“3. Every citizen of the Republic shall have rights and bear responsibilities by virtue of his or her citizenship.

“4. Foreigners and stateless persons in the Republic shall enjoy the rights and freedoms and bear the responsibilities established for citizens, unless the Constitution, laws or international treaties stipulate otherwise.

“5.The exercise of human and civil rights and freedoms must not lead to violation of the rights and freedoms of other persons, the constitutional order or public morals.”

21.Matters concerning protection of the rights of refugee and displaced children are regulated by the Children’s Rights Act of 8 August 2002 (No. 345-II). In accordance with Government decision No. 1348 of 21 December 2004 approving the guaranteed level of free medical assistance for 2005, the list of guaranteed free medical aid for foreigners and stateless persons, including children, includes medical assistance in emergencies, but also in the event of an illness that represents a danger to others, unless international treaties ratified by Kazakhstan provide otherwise.

“ Article 47. Protection of the rights of refugee or displaced children

“1.Refugee or displaced children have the right to protection of their interests.

“2.Guardianship bodies at the place where the child is located and local migration services shall cooperate to obtain information about the existence and place of residence of the child’s parents or other legal representatives, and if necessary shall send the child to medical or other institutions whose function is to protect the rights of the child.”

22.Kazakhstan reaffirms its commitment to comply with the provisions of the Optional Protocol to the United Nations Convention on the Rights of the Child on the involvement of children in armed conflict.
