



Convention on the Rights of the Child

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Committee on the Rights of the Child

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Item 4 of the provisional agenda

Consideration of reports of States parties

List of issues in relation to the report submitted by Estonia 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

Addendum

Replies of Estonia to the list of issues*

[Date received: 20 December 2016]

* The present document is being issued without formal editing.

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1. **Please inform the Committee which is the governmental entity with the primary responsibility for the implementation of the Optional Protocol and which mechanisms have been established or are used to ensure coordination with the relevant regional and local authorities as well as civil society, including the media and academia.**

1. The governmental entity with the primary responsibility for the implementation of the Optional Protocol is the Ministry of Social Affairs. Implementation of the Optional Protocol is considered as part of the implementation of the Convention, and thereby the same mechanisms apply.

2. **Please provide information on the mechanisms and procedures used to collect data on the implementation of all aspects of the Optional Protocol. Please also provide disaggregated data by age, sex, nationality, region and ethnicity on the number of children aged 17 liable to national defence obligation (call-up selectees).**

2. Governmental authorities supervise implementation of legislation. Additional procedures have not been established.

3. Currently 6015 male Estonian citizens have been registered as call-up selectees (persons aged 17). Since the obligation to serve in the Defence Forces only extends to male persons, no records are maintained on 17-year-old female persons. Also, no information is gathered about the religion and nationality of the call-up selectees.

3. **Please provide information on the mandate and role of the Chancellor of Justice, as the Ombudsman for Children, in monitoring the implementation of the Optional Protocol.**

4. The Chancellor of Justice, as the Ombudsman for Children, has the right to monitor the activities of all the governmental bodies and officers including those working with minors. The scope of the monitoring procedure includes the right to visit the premises of the institution, to interview people involved in the activities of the institution, to request documentation and to undertake other necessary actions. Every child and also their parents may send an application to the Chancellor of Justice and the Chancellor will look into the matter. The Chancellor of Justice has had no complaints about minors in Estonian Defence League.

5. Respectively, participation of 16 and 17 year old minors in the Estonian Defence League can be monitored. The Estonian Defence League Act and the Military Service Act state that under 18 year old Estonian Defence League members cannot be involved in military activities. The National Defence Act states that children are released from fulfilling the national defence and temporary work obligation. Thus there has been no reason for the Ombudsman for Children to initiate monitoring procedures towards the Estonian Defence League activities connected with minors, although such a measure could be taken in case of necessity.

4. **Please provide information on any legal provision enabling the age of conscription to be lowered under 18 in exceptional circumstances, such as state of emergency. Please also provide information on the measures taken to ensure that call-up selectees aged 17 do not take direct part in hostilities.**

6. Estonia has adopted a Child Protection Act, which stipulates that all persons below the age of eighteen are children. Accordingly, persons below the age of 18 are not involved in the case of emergency, emergency situation, state of emergency or state of war. Military Service Act does not provide any possibility to lower the age of conscription under 18 in any exceptional circumstances mentioned previously.

5. Please inform the Committee whether the Penal Code defines the recruitment of children under the age of 15 as a war crime as per article 8 of the Rome Statute of the International Criminal Court.

7. The recruitment of children in the Penal Code is defined in Part 2 Chapter 8 Division 4 “War Crimes” under Section 1023. Subsection 1023 (1) defines that acceptance or recruitment of a person younger than eighteen years of age in national armed forces or armed units separate from the national armed forces or engagement in acts of war is punishable by one to five years’ imprisonment. Subsection (2) defines that the same act, if committed by a legal person, is punishable by a pecuniary punishment.

8. Therefore there is a provision in the Penal Code (Section 1023) that defines the recruitment of children under the age of 18 as a war crime which is stricter provision than in Article 8 of the Rome Statute of the International Criminal Court, and thus also includes children under the age of 15.

6. Please provide information on schools operated by the Ministry of Defence and, in particular, the minimum age of entry into these schools; the number of these schools and the curricula provided, including training on use of weapons; rules governing school discipline; existence of independent complaints mechanisms; disaggregated data on children attending these schools; and their right to leave the school at any time.

9. Ministry of Defence does not operate any school.

10. The Estonian National Defence College is an institution of vocational training, developing on secondary education, for applied higher education and military research related to national defence. Their mission is to train and educate senior non-commissioned officers, as well as junior and senior officers for the Estonian Defence Forces, National Defence League and other military institutions. Defence League School provides basic and in-service training for different level leaders and instructors. Neither of these institutions educates persons below the age of 18.

7. Please provide detailed information on associations and federations under the Estonian Defence League Act, in particular the number of Defence Leagues, disaggregated data by age and sex of junior members; measures to ensure that discipline is consistent with the child’s dignity; and the existence of independent complaints mechanisms. Please also provide information on the military training that junior members receive.

11. There is only one Defence League together with affiliated organisations Women’s Home Defence (Naiskodukaitse), Young Eagles (Noored Kotkad) and Home Daughters (Kodutütred) with all together 6521 voluntary junior members.

Organisation	7-15 years		16-18 years		Total
	Boys	Girls	Boys	Girls	
Defence League			132	21	153
Women’s Home Defence			20		20
Young Eagles	2 003		931		2 934
Home Daughters		2 438		976	3 414
Total					6 521

12. Article 28 of the statutes of Home Daughters says that the members may turn to the leaders of their district for the protection of their rights. The organisation enables one to escalate a decision of a leader or a collegial body to the next level of leader/body, if necessary.

13. It is the same with the Young Eagles: according to article 24, a member may turn to the leader of the district of Young Eagles for the protection of their rights. The supervision system is also built up considering the hierarchy of the organisation; a matter may always be escalated before a collegial body or a decision may be disputed at a higher level.

14. A junior member of the Defence League may refuse to obey an order, in which case they shall inform the person who gave the order and a manager of a higher level thereof.

15. Clause 6 (5), 2) of the Rules of Conduct of the Defence League states that all members of the Defence League shall always act with dignity. The dignity of members is protected by the structural principle, being a voluntary activity. The principle of voluntary activity assumes very reasonable ways of inclusion. For junior members it is important to obtain the consent of a parent. In addition, the parents are communicated with before the event and feedback is given after the event.

16. Junior members of the Defence League and its sub-organisations may not participate in any military training and activity.

8. Please provide information on measures taken to provide regular training to military personnel on the Optional Protocol, including in the context of international peacekeeping operations. Please indicate whether national legislation prohibits the trade and export of small and light arms as well as military assistance to countries where children are involved in armed conflict.

17. Military personnel who are deployed to foreign military missions are trained beforehand at special mission orientated courses in Estonia or at courses abroad with the purpose of preparation for mission specific circumstances. Pre-mission training programs are regularly updated according to lessons learned experience.

18. Legislation does not directly prohibit the sale of weapons, however this does not mean that it is acceptable and undertaken. The purchase and sale of military weapons is decided by the Ministry of Defence; export and import of other weapons in Estonia is decided by the strategic goods committee or the Police and Border Guard Board. The main basis for deciding on the countries from or to which it is permitted to sell weapons, derives from Estonian foreign policy. Export, import and transit of military weapons are regulated by Strategic Goods Act and its Sections 5 and 19 provide prohibitions in which cases it is prohibited to import or export weapons or any other military goods. Generally, Estonia does not buy or sell weapons or engage in military cooperation with countries, which use (involve) children below the age of 15 in the armed forces, or where military service is compulsory for persons below the age of 18.

9. Please provide information on methods used to identify children who are vulnerable to practices contrary to the Optional Protocol. Please inform on measures taken to promote public awareness of the principles and provisions of the Optional Protocol, including through peace education in the school curricula, and measures aimed at making children aware of the harmful consequences of involvement in armed conflict.

19. Learning Strategy 2020, also assume the adequate addressing of global issues at school. Furthermore, this is a precondition for the development of critical thinking and media literacy. Accordingly, the discussion of such globally important issues in different lessons and extracurricular activities is encouraged through curriculum-wide values,

competencies and topics. International projects and informal educational activities are also essential in this field.

20. Besides, war crimes and crimes against humanity are analysed on a broader front in both basic school as well as upper secondary school within the context of the Second World War. Within the framework of the mandatory social education course in upper secondary school, the principles, legislation and nature of humanitarian law, as well as the limitations and protection arising from these are also mentioned. In order to understand this topic, the breaches of humanitarian law and human rights must be discussed, which most definitely include the topic of child soldiers. Respect for human life, rights and dignity are the keywords, which can be found from several groups of studies and subject syllabuses.

21. In 2017, the concept of human rights education will be developed, the object of which inter alia is how to find ways to better integrate the human rights topic, values and principles in the curricula and how to create even better and systematic relations and forms of cooperation between formal and informal education. This process may also be useful in regard to this subject matter.

10. Please specify the provisions of the Penal Code covering and defining the acts enumerated in articles 1, 2, and 4 of the Optional Protocol, including the maximum and minimum penalties that can be imposed for each of these offences.

22. The Articles 1, 2 and 4 of the Optional Protocol are all defined and covered by Section 1023 of the Penal Code.

23. Subsection 1023 (1) defines that acceptance or recruitment of a person younger than eighteen years of age in national armed forces or armed units separate from the national armed forces or engagement in acts of war is punishable by one to five years' imprisonment. Section 2 states that the same act, if committed by a legal person, is punishable by a pecuniary punishment.

24. Therefore the penalties in the Penal Code for all the acts that are stated in articles 1, 2 and 4 of the Optional Protocol are as follows:

- The maximum penalty is five years' imprisonment; legal person is punishable by a pecuniary punishment;
- The minimum penalty is one year imprisonment; legal person is punishable by a pecuniary punishment.

11. Please inform the Committee on the sentences applicable under the law for attempts to commit and complicity or participation in these offences.

Attempt

25. The attempt to commit offence is regulated by Section 25 in the Penal Code. Subsection 25 (6) states that in the case of an attempt, the court may apply the provisions of Section 60 of Penal Code. Subsection 60 (1) states that in the cases specified in the General Part of the Code (Part 1), a court may mitigate the punishment of a person pursuant to the procedure provided for in subsections (2)-(4) of this section. Subsections 2-4 provide that the maximum rate of a mitigated punishment shall not exceed two-thirds of the maximum rate of the punishment provided by law, the minimum rate of a mitigated punishment shall be the minimum rate of the corresponding type of punishment provided for in the General Part of Penal Code and if the Special Part of Penal Code (Part 2) prescribes life imprisonment as a punishment for a criminal offence, imprisonment for a term of three to fifteen years shall be imposed in mitigation of the punishment. So, in case of attempt, a

court may reduce the punishment considering the above-mentioned circumstances found in subsections 60 (2)-(4) in the Penal Code.

Complicity or participation

26. The complicity or participation is regulated by Section 22 in the Penal Code. Subsection 22 (4) provides that unless otherwise provided for in Section 24 of Penal Code, a punishment shall be imposed on an accomplice pursuant to the same provision of law which prescribes the liability of the principal offender. Subsection 22 (5) states that in the case of an aider, the court may apply the provisions of Section 60 of Penal Code.

27. Hence, if Section 24 of Penal Code does not define otherwise, a punishment shall be imposed on an accomplice pursuant to the same provision of law which prescribes the liability of the principal offender. As in the case of attempt, a court also has the right to apply the provisions of Section 60 of Penal Code and mitigate the punishment considering the circumstances stated in Section 60 (2)-(4).

12. **Please inform whether there are any refugee, asylum seeking, or unaccompanied foreign children in the jurisdiction of the State party who have or may have been involved in armed conflict abroad. Please provide information on existing remedies and reparations that may be sought by child victims of offences under the Optional Protocol; and indicate measures that have been taken to provide training to those who work with child victims.**

28. Under the Relocation and Resettlement Programmes, there are currently 35 children in the jurisdiction of Estonia. While all of them come from areas under military conflict, there is no information of any of them having been directly involved in armed conflict. All of those children are in Estonia with their parents, none of those children is identified as unaccompanied asylum-seeking minors.

29. There is no separate measure package for children who are victims of offences under the Optional Protocol — all child victims, regardless of the cause, receive assistance and support under Estonia's general victim support. Refugee, asylum seeking and unaccompanied children receive all services (victim support, psychological help, health services, social services etc) on the same basis than Estonian nationals.

30. Those who work with child victims, receive constant training. In last years, there have been supplementary trainings on various forms of maltreatment, trauma, trafficking of human beings, prevention and early intervention, the impact of various religious, cultural and migratory backgrounds on risk behaviour and on cooperation between specialists.
