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## 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 2004**

**KYRGYZSTAN\***

[16 May 2006]

**Approved by Decision No. 92 of the Government of the Kyrgyz Republic**

**dated 13 February 2006**

#### **Report on the implementation of the Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict**

Article 1. Article 24 of the Kyrgyz Constitution and articles 3, 10 and 40 of the Compulsory Military Service Act (No. 1068-XII of 16 December 1992) stipulate that male citizens aged 18 at the time of conscription shall perform national service. Female citizens of the Kyrgyz Republic aged between 19 and 40 with medical or other special training may volunteer for military service.

Pursuant to article 11 of the Compulsory Military Service Act, male citizens desiring to pursue their studies at a military academy may be admitted to such an institution at the age of 17 or if they turn 17 in the year they enter the academy.

Citizens admitted to military academies are deemed to be national servicemen and shall be called cadets. They shall be subject to the same obligations as those prescribed for national servicemen.

Thus, only Kyrgyz citizens who are 18 years of age at the time of their conscription and are judged fit for military service may perform national service in commands, units and institutions under the jurisdiction of the Kyrgyz Ministry of Defence. Exceptionally, cadets at the Lieutenant-General Kalyinur Usenbekov Higher Military Academy in Bishkek may be admitted to the academy at the age of 17. First-year cadets are not allowed to take part in military operations.

Article 2. The Compulsory Military Service Act (No. 1068-XII of 16 December 1992) requires that:

Male citizens of the Kyrgyz Republic must register at military commissariats at their place of residence and obtain pre-conscription papers when they turn 17;

Male citizens of the Kyrgyz Republic who have turned 18 before conscription date (1 May or 1 October of the conscription year) and are judged fit for service are deemed to be military personnel (members of the armed forces of the Kyrgyz Republic) with effect from their departure from the military commissariat en route to their designated military service location;

A document confirming a person's age, namely a Kyrgyz passport, is issued to citizens at the age of 16.

There are no laws or regulations in Kyrgyzstan that make it possible to lower the age at which military service must be performed.

Article 3, paragraph 1. The Compulsory Military Service Act (No. 1068-XII of 16 December 1992) stipulates that the minimum age for voluntary enlistment into the armed forces of the Kyrgyz Republic is:

18 years for men who have completed national service or alternative service, and eligible reservists who have attended a training course for reserve officers at a higher educational institution, assuming fitness for service;

19 years for women with medical or other special training, assuming fitness for service.

Paragraphs 2 and 4. In commands, military units and institutions under the jurisdiction of the Kyrgyz Ministry of Defence, persons under 18 may not perform military service (with the exception of certain first-year cadets at the Lieutenant-General Kalyinur Usenbekov Higher Military Academy in Bishkek).

Paragraph 3. The following persons may be admitted to the armed forces on a voluntary basis:

Male citizens of the Kyrgyz Republic who have completed national service or alternative service, and eligible reservists who have attended a training course for reserve officers at a higher educational institution, assuming they are fit for service, shall be deemed to be military personnel (members of the armed forces of the Kyrgyz Republic) with effect from the issuance of the directive by the military commissariat regarding their voluntary enlistment in the armed forces of the Kyrgyz Republic;

Female citizens with medical or other special training, assuming fitness for service.

Volunteers must undergo a medical examination at an appropriate facility.

A document confirming a person's age, namely a Kyrgyz passport, is issued to citizens at the age of 16.

Citizens who volunteer to enlist in the armed forces of the Kyrgyz Republic must be familiar with the conditions of service as defined in the Military Service Regulations (applicable to officers, junior officers, female military personnel, re-enlisted personnel, and national servicemen).

The minimum length of service for the various categories of military personnel is:

- (a) National servicemen - one year (two years for alternative non-military service);
- (b) Re-enlisted personnel - two years;
- (c) Female military personnel - two years;
- (d) Junior officers - three years;
- (e) Officers - five years.

For all categories of military personnel, conditions of early discharge from service include death, poor health and important family reasons. Advertisements, visits to schools by war veterans, and television programmes are among the means used to attract volunteers to the armed forces.

Paragraph 5. No schools are administered or controlled by the Kyrgyz Ministry of Defence.

The network of day schools for children traumatized by military conflicts and refugees has been expanded and evening classes have been organized for more than 2,000 children. In many regions of Kyrgyzstan, evening schools have been converted into technical lycées or training centres where students can combine their academic education with apprenticeship in a trade. Eleven evening schools catering to 1,210 children have been inaugurated and are now in operation.

Human rights issues are included in the school timetable. Four hours a week are devoted to the subject "The Individual and Society" in Years 9 to 11, and the subject "Adepi sabagy" (Moral Education) is assigned one hour a week in Years 1 to 11. These subjects form part of the national curriculum.

Articles 4 and 5. There are no armed groups other than military units of the Kyrgyz armed forces in the territory of the Kyrgyz Republic.

Under article 375, paragraph 3, of the Kyrgyz Criminal Code (Activities involving mercenaries), it is a criminal offence to recruit, train, finance or otherwise materially assist child mercenaries, or to use child mercenaries in armed conflicts or hostilities.

A mercenary is someone who acts in the expectation of receiving a material reward, is not a citizen of the State party to the armed conflict or hostilities, does not reside permanently in its territory, and has not been assigned to perform official duties.

In 2004 and the first nine months of 2005 the Kyrgyz courts did not consider any criminal cases involving persons charged with offences contrary to article 375, paragraph 3, of the Criminal Code.

Article 6. Every minor is entitled to free education in State general-education schools and to basic vocational training in accordance with the Education Act.

The full course of general secondary education is compulsory and free.

Taking account of the minor's wishes and abilities, parents may opt for a higher standard of education or attendance at properly registered non-State institutions.

Parents, persons *in loco parentis* or officials who interfere with a minor's education shall incur liability as stipulated by law.

To the extent that their age and maturity permit, minors are entitled to choose their own educational establishment, field of study and form of instruction, as dictated by their inclinations and abilities. In this regard, account shall be taken of the opinions of the parents or persons *in loco parentis* (Minors (Protection of Rights) Act No. 126 of 22 November 1999, art. 14).

The rights of orphaned minors and minors without parental care are protected by the State, chiefly through adoption, placement under tutorship or guardianship, referral to a family-type children's home or other types of family upbringing.

Minors who cannot be placed with a family are referred to publicly maintained children's homes or residential schools. Minors may be transferred between institutions only if such a transfer is in their interests, and where a pressing need exists.

The allowances, pensions and other payments to which a minor is entitled, together with any money recovered from the child's parents for maintenance, shall be paid either to the person to whose care the minor has been entrusted or credited to the child's personal account if the minor has been placed in a children's institution (Minors (Protection of Rights) Act No. 126 of 22 November 1999, art. 32).

A tutor or guardian may be appointed for a minor if the child has no parents or adoptive parents, if the child's parents have been deprived of their parental rights by a court, or if the child is without parental care for any other reason, for example if the parents shirk their duty to bring up the child or to protect the child's rights and interests. Tutorship or guardianship over a minor is also prescribed to ensure a child's education (Civil Code, art. 66).

Tutors and guardians are appointed by agencies of tutorship and guardianship at the place where the person requiring tutorship or guardianship resides, within one month of the agency's learning that the individual needs to be placed under tutorship or guardianship. If just cause can be demonstrated, a tutor or guardian may be appointed by the agency of tutorship and guardianship at the tutor or guardian's place of residence. If no tutor or guardian is appointed for the individual requiring tutorship or guardianship within one month, the agency of tutorship or guardianship will provisionally perform the function of tutor or guardian.

The appointment of a tutor or guardian may be challenged in the courts by persons with an interest in the matter (Civil Code, art. 70).

Criminal liability for certain categories of crimes begins at the age of 14 (such offences are listed in article 18, paragraph 2, of the Criminal Code).

For all other offences, criminal liability begins at the age of 16.

Chapter 44 of the Code of Criminal Procedure lays down a special procedure for criminal proceedings involving minors, with built-in safeguards for the rights of the child. These safeguards include a special procedure for questioning minor suspects or minors charged with an offence; the mandatory presence of a teacher and a psychologist during the questioning of minor suspects or minors charged with an offence; and the presence of a legal representative of a minor suspect or minor charged with an offence during the pretrial investigation and the trial itself.

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