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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  
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 2008**
**ECUADOR\***

[20 March 2008]

**CONTENTS**
*Paragraphs Page*

I.INTRODUCTION 1 - 63

II.ARTICLE 1 OF THE OPTIONAL PROTOCOL 7 - 143

III.ARTICLE 2 OF THE OPTIONAL PROTOCOL 15 - 205

IV.ARTICLE 3 OF THE OPTIONAL PROTOCOL 21 - 296

V.ARTICLE 4 OF THE OPTIONAL PROTOCOL 30 - 458

VI.ARTICLE 5 OF THE OPTIONAL PROTOCOL 46 - 5110

VII.ARTICLE 6 OF THE OPTIONAL PROTOCOL 52 - 7512

VIII.ARTICLE 7 OF THE OPTIONAL PROTOCOL 76 - 7916

**Annexes**

I.References 17

II.Working Group on the Rights of the Child with regard to the Involvement of Children in Armed Conflict 18

**I. INTRODUCTION**

1. In accordance with 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 (hereinafter referred to as the "Optional Protocol"), Ecuador, as a State party, has the honour to submit the initial report on its implementation of the Optional Protocol to the Committee on the Rights of the Child.

2. This report has been prepared by the National Council for Children and Adolescents in accordance with article 195 (i) of the Childhood and Adolescence Code with assistance from the member institutions of the Working Group on the Rights of the Child of the Human Rights Coordination Commission, which was established by Executive Order No. 3493, published in *Official Gazette* No. 735 of 31 December 2002, and is responsible for drawing up Ecuador's reports for submission to treaty bodies. It was also assisted by civil society organizations dealing with issues relating to the rights of children and adolescents in Ecuador and, in particular, by agencies focusing on children's involvement in armed conflicts. A number of international cooperation agencies and other international bodies also contributed to its preparation.

3. The methodology used by the Council for Children and Adolescents to gather information for this report focused on four main areas: (a) the public policy/legal framework; (b) the institutional framework; (c) prevention; and (d) protection.

4. Drawing on the information collected in each of these four categories, the report, which is structured numerically, describes what Ecuador has achieved in terms of full compliance with the Optional Protocol. It thus reviews the applicable national laws and

regulations, the accompanying institutional structure, preventive measures and protective mechanisms.

5. Ecuador ratified the Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict on 23 December 2003 (Executive Ratification Order No. 1226, published in *Official Gazette* No. 247 of 7 January 2004). The Optional Protocol has been incorporated into Ecuador's legal system in accordance with article 163 of the Constitution, which states:

Article 163. The norms contained in international treaties and conventions, once promulgated in the *Official Gazette*, shall form part of the Republic's legal system and shall take precedence over laws and other norms of a lower status.

6. Ratification of the Optional Protocol has not given rise to the passage of any special purpose legislation for its implementation. Instead, its provisions have been incorporated into the existing laws and regulations on the protection of the rights of children and adolescents.

## II. ARTICLE 1 OF THE OPTIONAL PROTOCOL

7. Articles 47 and 50 of the Constitution establish the State's obligation to ensure that special protection is provided to children and adolescents, especially in high-risk situations such as armed conflicts.

8. Article 57 of the Organization Act establishing the Childhood and Adolescence Code expressly prohibits the use of children and adolescents in internal or international armed conflicts or hostilities. It also guarantees respect for the right to survival, protection, full development and participation.

Article 57. Right to special protection in disaster situations and armed conflicts. Children and adolescents have the right to special protection in the event of natural disasters and internal or international armed conflicts. Such protection will take the form, inter alia, of priority access to means of evacuation from the area in question, lodging, food, medical care and medicines.

The State guarantees full compliance with the rules of international humanitarian law regarding children and adolescents to which this article refers and shall ensure access to the resources, means and mechanisms required for their reintegration into society, along with all the associated rights and duties.

Recruiting or permitting the direct participation of children or adolescents in internal or international armed hostilities is prohibited.

9. Specific national defence provisions, such as article 5 of National Armed Forces Compulsory Military Service Act No. 68, published in *Official Gazette* No. 527 of 15 September 1994, do not, however, expressly prohibit the recruitment of people under 18 years of age to participate directly in internal or international hostilities.

10. The new Childhood and Adolescence Code provides for the creation of new bodies to formulate policy, monitor and protect the rights of children and adolescents residing in Ecuador, particularly those who are victims of the crimes covered by the Protocol.

11. These bodies (the National Council for Children and Adolescents and the Cantonal Councils for Children and Adolescents) are the lead decentralized agencies responsible for formulating, assessing and monitoring public policy on the comprehensive protection of children and adolescents. At present the National Council for Children and Adolescents and 81 of the planned 219 Cantonal Councils for Children and Adolescents are in operation.

12. The Childhood and Adolescence Code also calls for the creation of Cantonal Rights Protection Boards. These are operational bodies at the cantonal level whose main job is to protect individual and collective rights that may have been threatened or infringed by any person, institution or agency. To this end, they define means of protection using a special procedure that enables them to take swift, efficient action. Four years after the Childhood and Adolescence Code entered into force, the country still has only 16 Cantonal Rights Protection Boards.

13. In accordance with the Convention on the Rights of the Child and the declaration entitled "A world fit for children", in October 2004 Ecuador adopted the Comprehensive 10-year National Protection Plan for Children and Adolescents as a policy framework for the comprehensive protection of the rights of children and adolescents. The Plan sets out 29 lines of policy, organized by age group. These policies, which focus primarily on the rights to survival and protection, underpin efforts to halt the infringement of such rights.

14. At the time the 10-Year Plan was drawn up, the following statement was made: "There are no child combatants in Ecuador ... However, there may be exceptional cases of this sort in connection with the civil war in the country's neighbour to the north (Colombia). Evidence of the existence of such cases would have to be obtained before stating that Ecuadorian children are being recruited by regular or irregular Colombian forces." The only official reports concern child and adolescent victims of the armed conflict in Colombia who have sought refuge in the country.

## III. ARTICLE 2 OF THE OPTIONAL PROTOCOL

15. Article 188 of the Constitution states that military service is compulsory in Ecuador. It also provides, however, that: "Citizens will be assigned to community service if they make a conscientious objection on the basis of moral, religious or philosophical grounds as prescribed by law." On 27 June 2007 (*Official Gazette* No. 114), the Constitutional Court ruled that articles 88 and 108 of the National Armed Forces Compulsory Military Service Act were unconstitutional.

16. Although the National Armed Forces Compulsory Military Service Act does not prohibit the inclusion or recruitment of people under 18 years of age, it does say that one of the requirements for performing compulsory military service is to be of "military age", which begins at age 18.

17. The special legislation on compulsory military service does not expressly prohibit the recruitment of people under 18 years of age to participate directly in internal or international hostilities; it simply says that, in order to be subject to compulsory recruitment, the person in question must be of military age. The special legislation on the protection of the rights of children and adolescents does prohibit it, specifically and clearly, however. Since the legislation in question is an organization law, it prevails over the special law on compulsory military service. Consequently, the recruitment of children and adolescents in armed conflicts is prohibited in Ecuador.

18. The Refugee Office of the Ministry of Foreign Affairs reports that it has no age-disaggregated statistics on children or adolescents entering the country who are fleeing from forced recruitment or who have belonged to armed groups. Statistics disaggregated by age and sex are available, however, on asylum-seekers and refugees in Ecuador between 2000 and 2007. Out of a total of 46,435 asylum-seekers in Ecuador, 3.71 per cent are girls and 2.48 per cent are boys between the ages of 0 and 5, while 6.99 per cent are girls and 8.49 per cent are boys between the ages of 6 and 17. Of the 13,448 people holding refugee status in Ecuador, 4.69 per cent are girls and 4.49 per cent are boys between the ages of 0 and 5, while 8.99 per cent

are girls and 10.50 per cent are boys between the ages of 6 and 17. The Office of the United Nations High Commissioner for Refugees (UNHCR) calculates that between 10 and 15 per cent of these people have been involved in armed conflicts.

19. UNHCR also estimates, however, that about 70 per cent of these children and adolescents are fleeing from forced recruitment or attempted forced recruitment by irregular groups involved in Colombia's internal conflict and that about 30 per cent have taken an active part in the armed conflict (after having been recruited by force, in most cases), while others are victims of the disintegration of their families and/or the death of parents and other relatives and other events related to the conflict.

20. Many child refugees in Ecuador, especially unaccompanied or separated children, are in need of appropriate support and special protection in their host country, both because they have been traumatized by their experiences in conflict situations and because of the very fact that they are vulnerable and have become separated from their families.

#### **IV. ARTICLE 3 OF THE OPTIONAL PROTOCOL**

21. As noted in the section concerning article 2, military service was compulsory in Ecuador until June 2007, when the Constitutional Court ruled otherwise. Article 5 of the National Armed Forces Compulsory Military Service Act, however, establishes the minimum "military age" as being 18 years of age and provides for the possibility of voluntary recruitment without prohibiting the inclusion or recruitment of people under 18. In its decision No. 0035-2006-TC, the Constitutional Court referred to freedom of conscience and opinion as a basis for ruling that it was unconstitutional for military service to be compulsory (see the text of the decision annexed to this report).

22. The special legislation on compulsory military service does not expressly prohibit the recruitment of volunteers under 18 years of age. Because no mention of such a limitation is made, the legislation fails to establish safeguards to protect volunteers under the age of 18.

23. Article 5 (v) of the Act does not include pupils in military schools and colleges, which instil military instructional doctrine involving elements of violence and the use of military ranks, in the "volunteer" category.

24. The Ministry of Defence reports that there are 57,100 members of the armed forces, which is equivalent to 0.47 per cent of Ecuador's population.

25. According to the Ministry of Defence, each year nearly 125,000 men residing in Ecuador reach the age of conscription (18 years). Usually, only some 60 per cent of conscripts respond when they are called up. Nearly 20 per cent are exempted, and just 40 per cent actually perform military service.

26. The Armed Forces of Ecuador require that a number of documents, including a citizen card, be submitted to certify a person's age prior to induction into compulsory military service. The implementing regulation for the National Armed Forces Compulsory Military Service Act provides that:

#### **Military service in general**

Article 2. For Ecuadorian citizens, military obligations begin at eighteen (18) years of age and end at fifty-five (55) years of age. People are considered to be of military age when their birth dates fall within the calendar year (between 1 January and 31 December).

[...]

#### **Women's military service**

Article 5. Women shall perform military service for purposes of national defence on the dates, in the locations and with the troops determined by the Joint Command at the request of the Forces.

Article 6. The obligations to be met by women are as follows:

Conscripts who have reached the age of 18 and who have been called up for duty shall be classified, selected and posted;

Those who are selected and posted shall be quartered and shall be on active duty between the ages of 19 and 20 in accordance with the options set out in article 7 herein;

Once they have completed active duty, they shall enter the military reserve forces and shall remain on call, with temporary leave,

between the ages of 20 and 25. Between the ages of 26 and 55, they shall be part of the general reserve forces.

27. As noted in paragraph 23, Ecuador has a number of military schools, such as:

(a) Escuela de Formación de Soldados de la Fuerza Terrestre (Land Forces Training School). Admission requirements for soldiers in both the weapons and services sections: minimum age of 18 and maximum age of 21 years and 11 months as of the date of entry;

(b) Escuela Superior Militar “Eloy Alfaro” (Eloy Alfaro Military Academy). Admission requirements: maximum age of 20 as of 31 December of the year of entry;

(c) Escuela de Infantería Aérea (School for Airborne Infantry). General admission requirements for candidates for the infantry programme: minimum age of 17 and maximum age of 22 years and 6 months as of the date of entry;

(d) Escuela Superior Militar de Aviación (Military Aviation Academy). General admission requirements for candidates for the cadet pilots and technicians programmes: minimum age of 17 and maximum age of 22 years and 6 months as of the date of entry;

(e) Escuela Superior Naval (Naval Academy). Admission requirements for weapons and services sections of the coastguard: minimum age of 17 and maximum age of 21 years and 0 months as of the date of entry;

(f) Escuela de Infantería de Marina (Marine Corps Academy). Admission requirements: minimum age of 17 and maximum age of 21 years and 0 months as of the date of entry.

28. With regard to article 2 of the Optional Protocol, upon ratification Ecuador made the following binding statement: “The Government of the Republic of Ecuador hereby declares that, in accordance with the provisions of its Constitution, military service is compulsory. Citizens who invoke conscientious objection on moral, religious or philosophical grounds are assigned to community service, in the manner prescribed by the law.”

29. Article 5 of the Compulsory Military Service Act states that “military obligations begin, for Ecuadorian citizens, at 18 years of age, and end at 55 years of age. The period between the ages of 18 and 55 shall be called ‘military age’”.

## V. ARTICLE 4 OF THE OPTIONAL PROTOCOL

30. Paragraph 1 of article 4 is not entirely applicable in Ecuador because Ecuador has no armed groups other than its Armed Forces.

31. As noted earlier, Ecuador has established the Decentralized National System for the Comprehensive Protection of the Rights of Children and Adolescents as provided for in its Constitution (art. 52) and the Childhood and Adolescence Code (vol. III). Under this system, the State’s institutional structure is to be reorganized in order to ensure that bodies responsible for safeguarding rights are in place and that their work is coordinated under a single agency.

32. To prevent the types of actions covered by this article, in Ecuador it is a crime to traffic in persons for the purpose of coercing them to provide services, and this includes the use of children or adolescents in armed conflicts. This provision was introduced as part of the reform of the Criminal Code implemented via Act No. 2005-2, which was published in *Official Gazette* No. 45 of 23 June 2005.

33. The reform increased the penalties for the crime of trafficking in persons for such purposes. If the victims are children or adolescents, the crime is considered to have been committed under aggravating circumstances, as provided for in the following unnumbered section of the Criminal Code:

Article ... Promoting, inducing, participating in, facilitating or encouraging the recruitment, transfer, harbouring, receipt or delivery of a person, even with the victim’s consent, through recourse to threats, violence, deception or any other fraudulent means for purposes of illicit exploitation, whether or not for financial gain.

Under the terms of this offence, exploitation is defined as any form of coerced work or service, slave labour, sale and/or use of persons for begging, armed conflicts or recruitment for criminal purposes.

*Note:* Chapter and article appended to Act No. 2, published in *Official Gazette* No. 45 of 23 June 2005.

34. This reform of the Criminal Code incorporates the principles of protection set out in the Constitution, the Convention on the Rights of the Child, and the Childhood and Adolescence Code and is one of the most important measures adopted by Ecuador to combat these types of crimes against children and adolescents.

35. The use of children and adolescents in armed conflicts is not defined as a specific offence in and of itself in Ecuador’s criminal legislation, however.

36. In order to prevent forced recruitment, in accordance with the Optional Protocol, Ecuador launched a national campaign to safeguard all children’s and adolescents’ right to an identity and identification.

37. The campaign, entitled *Juntos por la Identidad* (“stand together for our identity”), was conducted jointly by the former National Council for Modernization of the State, the Civil Registry, the National Council for Children and Adolescents, UNHCR, the United Nations Children’s Fund (UNICEF) and a number of municipal governments. The first phase of the campaign was carried out in 2006 and placed priority on disadvantaged areas and border zones where, because they are located far away from registration centres, there are many children (both Ecuadorians and foreign refugees) whose births have not been recorded. Thanks to the implementation of two phases of this campaign between March and December 2006, 151,418 people received identity cards for the first time and birth records were established for 8,194 children and adolescents.

38. Even though Ecuador observes the principle of territoriality, which gives every child born in the country the right to Ecuadorian citizenship, administrative obstacles continue to hinder refugees from registering their children. The actions described above have therefore been coupled with campaigns designed to inform people about their rights and the corresponding procedures.

39. Ecuador does not, however, register children or adolescents as applicants for asylum or as refugees unless they have brought certain documents with them from their country of origin (birth certificate and/or authorization from a non-accompanying parent to leave the country). The reason cited for this is to avert trafficking in children who might then be able to become legal residents via the asylum system.

40. The National Plan Against Human Trafficking (issued as Executive Order No. 1823 of 30 August 2006 and published in *Official Gazette* No. 375 of 12 October 2006) provides a framework for public policy. The three pillars of this policy are prevention; prosecution and punishment; and the protection and restitution of victim's rights.

41. In order to strengthen prevention, this policy calls for the generation of qualitative and quantitative information on the nature and scale of the problem in terms of the people, types of conduct and criminal offences involved. This information will serve as a basis for: promoting sociocultural change, decision-making, and implementation of policies, plans and programmes dealing with relevant issues; designing and implementing a communications strategy aimed at various social and institutional stakeholders; awareness-raising, training and informing people about the scale and seriousness of the problems addressed by the National Plan; supporting prevention, reporting and protection as means of fostering change in cultural beliefs and practices; and conducting educational, training and sensitization activities with and for social stakeholders that have or may have a role in detection, prevention, recovery, compensation and/or restitution of rights in connection with issues covered by the Plan.

42. In the area of prosecution and punishment, the Plan calls for the reinforcement of the administration of justice, establishment of a victim and witness protection system within the Public Prosecutor's Office, and generation of knowledge about the practices of justice officials and about legal and procedural limitations with a view to the reformulation of laws and rules where necessary.

43. In order to further the protection and restitution of victims' rights, the Plan provides for the development and delivery of comprehensive, personalized services that will avoid revictimization and ensure compensation, the restitution of rights and the establishment of appropriate conditions for the full exercise of those rights. It also sets forth strategies for strengthening international cooperation.

44. In order to ensure that these strategies are implemented, the Government has drawn up a plan of action for 2007 which prioritizes the steps to be taken and calls for the creation of a special protection programme at the national level. A budget increase of US\$ 7 million was introduced for this programme, which is designed to reinforce services for children and adolescents requiring special protection by the State in accordance with the relevant provisions of the Constitution.

45. Ecuador, with support from UNHCR, is able to report that between January 2000 and December 2006, a total of 248 unaccompanied or separated children were registered as asylum seekers with the Refugee Office of the Ministry of Foreign Affairs. Of the cases registered in 2005 and 2006, 47 concerned females and 115 concerned males, of whom 88 per cent were between the ages of 16 and 17.

## **VI. ARTICLE 5 OF THE OPTIONAL PROTOCOL**

46. The Optional Protocol does not contravene Ecuador's domestic laws in any way. On the contrary, as repeatedly noted in this report, the Constitution of Ecuador stipulates that it is the

State's obligation to safeguard children's and adolescents' rights and to afford special protection to those whose rights have been violated. It also provides for the creation of the Decentralized National System for the Comprehensive Protection of the Rights of Children and Adolescents.

47. Ecuador's Constitution incorporates two fundamental principles present in the Convention on the Rights of the Child: that the best interests of children and adolescents are a primary consideration, and that their rights are of the utmost priority.

48. The application of these constitutional principles is governed by the Childhood and Adolescence Code, an organization act which was published in *Official Gazette* No. 737 of 3 January 2003 and entered into force on 3 July of that same year.

49. At the international level, Ecuador has signed and ratified all the general human rights treaties and a number of international humanitarian legal instruments, particularly those dealing with the rights of children and adolescents.

50. As part of its efforts to combat impunity, Ecuador supports the work of the International Criminal Court, whose Statute defines the conscription or enlistment of children under the age of 15 or their use in national or international hostilities as a war crime. Ecuador ratified the Rome Statute of the International Criminal Court by means of Executive Order 2256-B of 17 January 2002 (published in *Official Gazette* No. 699 of 7 November 2002) but has not yet developed all the legal mechanisms needed to ensure its full application. Progress has been made, however, in signing agreements and setting up such bodies as the National Commission for the Application of International Humanitarian Law, which was established by means of Executive Order No. 1741, published in *Official Gazette* No. 344 of 29 August 2006. The Commission is composed of the Ministry of Foreign Affairs, the Ministry of Governance and National Police, the Ministry of Defence, the Ministry of Social Welfare, Congress (represented by the Congressional Committee on Legislation and Codification and the Congressional Committee for Human Rights), the Supreme Court, the Office of the Attorney-General and the Ecuadorian Red Cross. The Commission has drawn up a national action plan for promoting respect for international humanitarian law and its application in Ecuador. Its objectives include:

(a) Assessing the relevance for Ecuador of ratifying certain treaties, such as the International Convention for the Protection of All Persons from Enforced Disappearance; the International Convention against the Recruitment, Use, Financing and Training of Mercenaries; and others;

(b) Drafting laws designed to align domestic law with the principles and norms of international humanitarian law and, to that end, proposing means of expediting implementation of the 1998 Rome Statute of the International Criminal Court in Ecuador's legal system and ensuring that war crimes are duly defined in accordance with article 8 of the Rome Statute (the Commission is working towards this objective with assistance from the subcommittee responsible for drafting and follow-up of proposed bills and regulations);

(c) Informing Ecuador's armed forces and civilian population about international humanitarian law (as a result of its work in this area, an inter-agency agreement was signed on 25 May 2006 by the Ministry of Defence, the International Committee of the Red Cross and the Ecuadorian Red Cross; activities conducted under this agreement include training two groups of officers from the three branches of the armed forces to serve as military instructors in international humanitarian law, two workshops on the integration of military regulations in accordance with the Geneva Conventions of 1949 and their Additional Protocols, and inclusion of the principles and norms of international humanitarian law and human rights in the armed forces' academic curricula);

(d) In addition, the Commission has provided assistance to support the physical and psychological recovery of demobilized combatants or people who have been used in hostilities. Projects of this sort have been conducted by numerous agencies. Through the Ecuadorian Red Cross, for example, the International Committee of the Red Cross is working to protect people from the effects of armed conflicts or other types of violence by implementing aid programmes, assisting conflict victims, evacuating or transferring people who are in danger, reestablishing or maintaining family contact and searching for people through the central office of the missing persons agency used by the Ecuadorian Red Cross in Quito, which is backstopped by the Provincial Boards at the national level.

51. Article 138 of the Labour Code defines the participation of children in armed conflicts as one of the worst forms of child labour. This reflects the principle set out in the Plan for the Prevention and Eradication of Child Labour in Ecuador of 2005, which incorporates the recommendations set forth in the International Labour Organization (ILO) Convention concerning the Prohibition and Immediate Action for the Elimination of the Worst Forms of Child Labour (Convention No. 182) of 1999, which includes the forced or compulsory recruitment of children for use in armed conflict in that category.

## VII. ARTICLE 6 OF THE OPTIONAL PROTOCOL

52. International treaties are incorporated directly into Ecuador's legal system once they have been published in the *Official Gazette*. As stated in article 163 of the Constitution: "The norms contained in international treaties and conventions, once promulgated in the *Official Gazette*, shall form part of the Republic's legal system and shall take precedence over laws and other norms of a lower status."

53. Once international instruments to which Ecuador is party have become part of domestic law, they, like all other legal provisions, are enforced by the courts. As stipulated in article 18 of the Constitution: "The rights and guarantees set forth in this Constitution and in the international instruments in force shall be directly and immediately applicable by and before any judge, court or authority."

54. Article 18 also states that:

Constitutional rights and guarantees shall be interpreted in the manner that is most conducive to their effective enjoyment. No authority may impose conditions or requirements for the exercise of these rights that are not provided for in the Constitution or by law.

The absence of legislation may not be cited as justification for the violation or disregard of the rights established in this Constitution, or for failing to act in such circumstances, or for denying recognition of these rights.

No legislation may restrict the exercise of constitutional rights and guarantees.

55. Furthermore, article 50 stipulates that it is the obligation of the State to adopt measures to ensure that children and adolescents receive priority attention "in the event of disasters or armed conflicts", while article 48 states that it is "the obligation of the State, society and the family to promote, as the utmost priority, the comprehensive development of children and adolescents and to ensure the full exercise of their rights. In all cases the principle of the best interests of the child shall be applied, and the child's rights shall take precedence over those of others".

56. Ecuadorian law also provides for the protection of victims and witnesses. Executive Order No. 3112 instructs the Office of the Attorney-General to create the Victim and Witness Protection Programme, and the Childhood and Adolescence Code establishes concurrent and sequential emergency and non-emergency administrative and judicial measures to ensure that rights are protected and restored.

57. Ecuador has also set up special protective mechanisms for use by the agencies that are assigned such duties under the above-mentioned statutes: protection of underage victims and witnesses is the responsibility of the Specialized Juvenile Justice Administration and the Public Prosecutor's Office; the Cantonal Rights Protection Boards deal with administrative matters; the country's Community Ombudsmen seek to engage civil society in protecting and defending children's and adolescents' rights; the Cantonal Councils and the National Council for Children and Adolescents are the governing bodies for local and national policy, respectively; and public and private care providers implement decisions taken by the competent authority and furnish their services within a setting of respect for human rights.

58. In order to ensure that the provisions of the Optional Protocol are widely known, Ecuador has achieved broad coverage by publishing the Protocol in the *Official Gazette*, which both the Constitution and the Civil Code designate as the official channel for distributing the texts of national laws. The *Official Gazette*, which is prepared by the Office of the Official Gazette, is widely distributed in Ecuador and can be consulted free of charge on the Internet.

59. Other State agencies also maintain websites that provide the full texts of international instruments to which Ecuador is party.

60. In addition to ensuring dissemination of the Optional Protocol through its publication in the *Official Gazette*, Ecuador undertakes other activities to publicize both it and the Convention on the Rights of the Child. These activities include the wide distribution of information on these instruments by the National Council for Children and Adolescents, the Metropolitan Council for Comprehensive Protection and others.

61. *With regard to the demobilization or release of victims and their protection, the National Plan Against Human Trafficking includes measures for protecting victims and restoring their rights; for strengthening the judiciary, the Public Prosecutor's Office and specialized units of the national police force in order to equip the country with judicial and law enforcement officers with expertise in the matters covered by the National Plan and in order to facilitate inter-agency coordination; for reinforcing and upgrading the Victim and Witness Protection System of the Public Prosecutor's Office by adapting existing legal provisions, setting up protective mechanisms and furnishing suitable technical, financial and human resources; for developing and delivering comprehensive, personalized care that will avoid revictimization and ensure compensation, the restitution of rights and the establishment of appropriate conditions for the full exercise of those rights; for promoting inter-agency coordination with a view to ensuring the delivery of comprehensive care, the restitution and exercise of rights, and social reintegration; and for promoting implementation of international cooperation policies to support the recovery and repatriation of victims, forestall their revictimization and protect their rights.*

62. The Organization Act establishing the Childhood and Adolescence Code also provides for actions in these areas and assigns responsibility for their implementation to administrative and judicial authorities. These actions are to be undertaken by the designated care providers in coordination with the other agencies of the system based on a comprehensive understanding of children's and adolescents' rights.

63. The following information has been garnered in the course of cooperation activities with various national and international agencies.

64. In the view of UNHCR, for most children used by armed groups in Colombia, entry into Ecuador is generally the first step towards actual demobilization, provided that they are given access to mechanisms and procedures that will facilitate their recovery and social reintegration.

65. UNHCR has indicated that the vast majority of unaccompanied and separated children applying for asylum in Ecuador have fled on their own, without having made contact in their home or host country with any organization that supports such children's reintegration into society.

66. Although children used by armed groups who have fled along with their families do have that vital source of support, they usually have not received any specialized assistance or support for their physical and psychological recovery.

67. *Confidentiality:* In line with international standards of protection, the State is taking the necessary steps to protect the confidentiality of personal information about people going through the asylum process. The Refugee Office of the Ministry of Foreign Affairs reports that this principle is upheld at all stages of the process and that special treatment is accorded to unaccompanied children and adolescents; confidentiality is maintained, and they are guaranteed immediate access to the procedures used to determine their refugee status.

68. Ecuador does not put applicants for refugee status (mainly children or adolescents) at risk by requiring them to return to their countries of origin to obtain identity papers or filiation certificates. To expedite application procedures, arrangements have been made with UNHCR and a number of NGOs to obtain such documents on the applicants' behalf. In the few cases where this proves to be impossible, UNHCR draws up special reports on the undocumented children or adolescents involved and submits those reports to the committee responsible for determining eligibility for refugee status in Ecuador so that the committee will be able to grant them asylum.

69. *Psychological care:* The Hebrew Immigrant Aid Society (HIAS), which partners with UNHCR, provides the services of 12 psychologists posted in 8 different locations within the country (Lago Agrio, Ibarra, Quito, Santo Domingo de los Colorados, San Lorenzo, Tulcán, Esmeraldas and Cuenca). These professionals furnish psychological and psychosocial care to refugees and asylum-seekers in general and especially to minors. In 2006 alone, 1,100 minors received psychological consultations, many of them on various occasions. The age groups requiring psychological services the most are girls and female adolescents from 12 to 17 years of age, followed by a broad spectrum of boys and male adolescents between the ages of 6 and 17. HIAS provides approximately US\$ 165,000 per year to fund these services, while UNHCR maintains the associated support structures.

70. *Access to education -development:* In 2006 Ecuador made headway in the legal protection of this fundamental right for children with the adoption of Ministerial Decision No. 455 of 21 September 2006 by the Ministry of Education and Culture, which seeks to fill a number of legislative gaps in the regulations governing the school system. This decision was issued in order to eliminate the administrative hurdles for asylum-seekers and refugees that were created by the requirement that they submit officially authenticated school certificates from their home country, since this requirement often resulted in the de facto return of these people to their country of origin. These people will now have direct access to the education system "without having to submit documents from their country of origin", as noted in article 1 of the Decision, and will not have to return to their home country. The Refugee Office of the Ministry of Foreign Affairs, in conjunction with the Comité Pro Refugiados (Refugee Advocacy Committee) of the Ecuadorian Episcopal Conference and UNHCR, coordinates arrangements with the various education departments at the national level to inform people

about this ministerial decision and about the State's obligation to ensure the education of underage refugees and asylum-seekers. There is absolutely no possibility for child and adolescent refugees in Ecuador who are at risk of forced recruitment to return to their country of origin. Furthermore, obliging them to come into contact with authorities from their country of origin would violate the principle of confidentiality discussed above.

71. Although the issuance of this decision is an important step forward in terms of the country's fulfilment of its international commitments, other steps remain to be taken in order to fully implement the new legal provisions. Given the limited availability of resources for the provision of social assistance and support, and even though most of these children plan to attend school at some point in the future in order to further their personal development, the subsistence conditions under which many of them live usually force them to enter the labour market (where refugees are often exploited by being paid less than the minimum wage or being paid in the form of room and board, for example), which restricts their right to personal development.

72. *Relevant judicial measures (bearing in mind children's and adolescents' special needs)*: With regard to arrangements for the care of children and adolescents, it should be noted that, since 2000 (the year when UNHCR began to operate in Ecuador), no child who has participated in an armed conflict has been referred to the judicial system in order to have his or her needs met. It is usually quite difficult for organizations to convince children or adolescents to take part in judicial procedures, which they generally regard as futile.

73. Refugee children and adolescents who have participated in armed conflicts sometimes have difficulty leaving the country in search of protection or of a lasting solution. UNHCR is running a resettlement programme in Ecuador under which refugees (including children) can be transferred to other countries if their situation in Ecuador is such that it could seriously interfere with their integration into the local population or their ability to recover from the physical and mental traumas they have suffered. Many children who have participated in armed conflicts have benefited from this procedure. Such transfers may sometimes be blocked, however, as a consequence of the procedures required for a minor to leave the country.

74. Although measures to forestall trafficking in children are necessary in most of the cases that arise at the country's airports, in order to serve the best interests of children who would benefit from resettlement, it is important to bear in mind that most of them do not have travel documents or authorization to leave the country from their parents (who may have disappeared or cannot be located).

75. A more flexible legal mechanism is needed to facilitate resettlement, ensure more appropriate, effective protection for this vulnerable group and prevent long, drawn-out legal procedures from causing them to lose contact with protection agencies.

## **VIII. ARTICLE 7 OF THE OPTIONAL PROTOCOL**

76. Ecuador has developed valuable partnerships with international cooperation institutions as a means of providing protection for child and adolescent victims whose rights as defined in the Optional Protocol have been threatened or violated.

77. UNICEF has played a crucial role in the development of a legal framework for protection, punishment and policymaking. The cooperation of ILO has also been of vital importance for the country.

78. As part of its mandate and role in the country, UNHCR provides:

- (a) Technical assistance, financing to cover staffing expenses, and cards and equipment for producing documentation to the Refugee Office of the Ministry of Foreign Affairs, both as a form of short-run assistance and as a means of building up this institution's capacity to respond to international protection needs in the country;
- (b) Expert psychological care for children and adolescents, which is furnished by specialized partner organizations;
- (c) Initial humanitarian assistance for newly arrived asylum-seekers;
- (d) Long-term humanitarian assistance and follow-up for persons with special needs, including minors who are at risk and/or are separated or unaccompanied;
- (e) Support for the Civil Registry Office's mobile documentation brigades; and
- (f) Implementation of projects for strengthening basic services, such as health care and education in refugee host communities.

79. **Recommendations**: With reference to article 12, paragraph 1, of the Optional Protocol, we recommend that an amendment be proposed concerning the need to include an article that prohibits military schools and academies from instilling military instructional doctrines involving elements of violence and the use of military ranks, since such teachings may promote the participation of children and adolescents in armed conflicts.

## **ANNEXES**

### **Annex I**

## **REFERENCES**

### **National legal instruments**

National Plan Against Human Trafficking

National Armed Forces Compulsory Military Service Act



Constitution

Childhood and Adolescence Code

Criminal Code

Executive Order No. 3112 on the Victim and Witness Protection Programme

Implementing regulation for the National Armed Forces Compulsory Military Service Act

Decision No. 0035-2006-TC of the Constitutional Court of Ecuador

*Official Gazette* No. 114 of 27 June 2007

### **Reporting organizations**

Ministry of Defence

Office of the Attorney-General

Ministry of Foreign Affairs, Commerce and Integration

Ministry of Governance and National Police

Office of the United Nations High Commissioner for Refugees (UNHCR)

Red Cross

International Organization for Migration (IOM)

International Labour Organization (ILO)

United Nations Children's Fund (UNICEF)

### **Annex II**

## **Working Group on the Rights of the Child with regard to the Involvement of Children in Armed Conflict**

### **Public institutions**

National Council for Children and Adolescents

National Women's Council

Ministry of Social Welfare

Ministry of Defence

Ministry of Education and Culture

Ministry of Governance and National Police

National Intelligence Division of the National Police Force

National Migration Division

Ministry of Foreign Affairs, Commerce and Integration

### **Guest civil society organizations**

Cruz Roja Ecuatoriana (CRE) [Ecuadorian Red Cross]

Servicio Paz y Justicia (SERPAJ) [Peace and Justice Service]

Centro de Documentación en Derechos Humanos "Segundo Montes Mozo S.J." (CSMM) [Segundo Montes Mozo S.J. Human Rights Documentation Centre]

Defence for Children International (DCI-Ecuador)

Grupo de Objetores de Conciencia del Ecuador (GOCE) [Conscientious Objectors of Ecuador]

Save the Children-Spain

Servicio Jesuita a Refugiados (SJR) [Jesuit Refugee Service]

## **International organizations**

International Organization for Migration (IOM)

Office of the United Nations High Commissioner for Refugees (UNHCR)

United Nations Children's Fund (UNICEF)

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