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## Convention on the Rights of the Child

### COMMITTEE ON THE RIGHTS OF THE CHILD

### CONSIDERATION OF REPORTS SUBMITTED BY STATES PARTIES UNDER ARTICLE 8, PARAGRAPH 1, OF THE OPTIONAL PROTOCOL TO THE CONVENTION ON THE RIGHTS OF THE CHILD ON THE INVOLVEMENT OF CHILDREN IN ARMED CONFLICT

#### Initial reports of States parties due in 2004

#### CROATIA

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#### Introduction

1. On 25 May 2000, the General Assembly adopted the Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict (hereinafter the Protocol) which complements the Convention and aims at improving the protection afforded to children in armed conflicts. The Republic of Croatia ratified the Protocol on 21 March 2002 (*Official Gazette*, International Agreements No. 5/2002). The Protocol entered into force for the Republic of Croatia on 13 June 2002 (*Official Gazette*, International Agreements No. 2/2003).

2. The Government of the Republic of Croatia has the honour to submit to the Committee on the Rights of the Child (hereinafter the Committee) the initial report of the Republic of Croatia (hereinafter Croatia) prepared pursuant to article 8, paragraph 1, of the Protocol. It covers legislation in force as of April 2006.

3. The present initial report describes the legislative, administrative, judicial and other measures applicable in Croatia in respect of the rights guaranteed by the Protocol following the Committee's guidelines on the preparation of country reports to be submitted by States parties in accordance with the Protocol (CRC/OP/AC/1).

4. The recruitment of children is generally prohibited in Croatia by its national legislation.

#### Part One: General information

##### 1. Definition of the child in Croatian law

5. The definition of the child in Croatian law is identical to that in the Convention since, according to article 120 of the Croatian Family Law, every person is considered to be a child until the age of 18, when he or she reaches maturity and acquires legal capacity (*Official Gazette* No. 116/2003).

##### 2. Applicability of the Protocol in Croatia

6. Croatia's commitment to human rights, democracy and the principles of the rule of law constitutes one of the major objectives of its foreign policy and for this reason Croatia has taken all necessary legislative and other measures in accordance with the provisions of the international law concerning the protection of children including prohibition of the recruitment of children.

7. With regard to the Protocol's place in domestic law, according to article 140 of the Constitution of Croatia (*Official Gazette* Nos. 41/2001 and 55/2001) international agreements concluded, ratified and published in accordance with the Constitution and which are in force, form a part of the internal legal order and have precedence over the laws in the hierarchy of legal acts. Hence, provisions of international agreements and treaties which are not in accordance with the internal legislation in force become directly applicable by virtue of the Constitution. Since the Protocol entered in force in Croatia as at 13 June 2002, the rights protecting children under the Protocol are applicable.

8. Although there is no need to bring a treaty into the legal system by enacting a specific law, the Defence Law (*Official Gazette* Nos. 33/2002 and 58/2002) has specific provisions related to compulsory recruitment of male conscripts, but only those who have

reached the age of 18, as the Defence Law has no provision for the compulsory recruitment of children.

### **3.Implementation of the Protocol in accordance with the general principles of the Convention on the Rights of the Child**

#### **Non-discrimination (Convention, art. 2)**

9.The principle of equality before the law and non-discrimination is the constitutional right protected in section III (Protection of human rights and fundamental freedoms) of the Constitution of Croatia by article 14 ("Everyone in the Republic of Croatia shall enjoy rights and freedoms, regardless of race, colour, gender, language, religion, political or other belief, national or social origin, property, birth, education, social status or other characteristics. All shall be equal before the law").

10.Since equality before the law is universally applicable, individual rights may be invoked by anyone, whether a minor or of age, Croatian or foreign. The Constitution of Croatia has protected that right in section III by, inter alia, article 26 ("All citizens of the Republic of Croatia and aliens shall be equal before the courts, government bodies and other bodies vested with public authority").

#### **Best interests of the child (Convention, art. 3)**

11.The best interests of the child constitute a guiding principle of Croatian law. The Constitution of Croatia, in section III article 62, makes special mention of children and young people in its list of fundamental economic, social and cultural rights ("The State shall protect maternity, children and young people, and shall create social, cultural, educational, material and other conditions promoting the right to a decent life"). At the legislative level, various laws take into account the best interests of the child.

#### **Right to life, survival and development (Convention, art. 6)**

12.In Croatia, the right to life consists of an entire range of economic, social and cultural rights and is guaranteed by various articles of the Constitution of Croatia as well as by international instruments and national legislation (Family Law and Criminal Law among others). The responsibility of parents and the State towards a child is guaranteed by article 63 of the Constitution of Croatia ("Parents shall have the duty to bring up, support and educate their children, and shall have the right and freedom to decide independently on the upbringing of their children. Parents shall be responsible for ensuring the rights of their children to a full and harmonious development of their personalities. Physically and mentally disabled and socially neglected children shall have the right to special care, education and welfare ... The State shall take special care of parentless minors or parentally neglected children").

13.Article 64 of the Constitution of Croatia emphasizes special protection of children and young people at work ("Everyone shall have the duty to protect children and helpless persons. Children may not be employed before reaching the legally determined age, nor may they be forced or allowed to do work which is harmful to their health or morality. Young people, mothers and disabled persons shall be entitled to special protection at work").

14.The provisions of article 65 of the Constitution of Croatia guarantee the right to education of children and young people ("Primary education shall be compulsory and free of charge. Secondary and higher education shall be equally accessible to everyone according to their abilities").

#### **Respect for the child's views (Convention, art. 12)**

15.Freedom of opinion implies the right to express opinions and is enjoyed by all persons, whether minors or of age and is guaranteed by article 38 of the Constitution of Croatia ("Freedom of thought and expression shall be guaranteed. Freedom of expression shall specifically include freedom of the press and other media of communication, freedom of speech and public expression, and free establishment of all institutions of public communication").

16.Respect for the child's views is a legal standard in all court and administrative proceedings where the child's well-being is at stake. Respect for the child's own views is reflected in different laws. For example, a number of provisions of the Family Law recognize the child's legal personality in specific cases such as paternity and maternity proceedings, appointment of a guardian, paternal care proceedings, adoption and under-age marriage proceedings. Respect for the child's views also implies the right to a hearing, but Criminal Procedure Law (*Official Gazette* No. 62/2003) gives special protection to minors during criminal proceedings including exemption from the duty to testify.

### **Part Two: Articles of the Protocol**

#### **Article 1: Minimum age for direct participation in hostilities**

17.Under article 1 of the Protocol, the States parties are required to raise the minimum age for direct participation in hostilities from 15 to 18. In Croatia minors are protected by domestic law, which prohibits the enlistment of minors (persons who have not reached the age of 18).

#### **Measures taken, including those of a legislative, administrative or other nature, to ensure that members of the armed forces who have not reached the age of 18 do not take direct part in hostilities**

18.Measures taken by Croatia to ensure that persons who have not reached the age of 18 do not participate in hostilities by prohibiting them from becoming a member of the armed forces are contained in various articles of the Defence Law. Under the

provisions of articles 34, 42 and 43, the requirement to enlist takes effect at the beginning of the year in which the person subject to military service reaches the age of 19, and under all circumstances, lapses at the end of the year in which he turns 30 (see below).

## **A. The meaning of “direct participation” in Croatian legislation and practice**

19. This issue does not concern Croatia, since the minimum age for enlistment is 18 and Croatia carries out steps in order to confirm a conscript's age (see below, verification procedure under the article 2).

## **B. Measures taken to prevent a member of the armed forces, who has not reached the age of 18, from being deployed or maintained in an area where hostilities are taking place**

20. Croatia is a country where no hostilities are taking place on its national territory and enlistment of minors in the armed forces is prohibited.

21. In Croatia conscripts (who have reached the age of 18 and are enlisted according to the legal procedure regulated by the Defence Law, see below) cannot be deployed to peacekeeping operations or the other activities abroad according to article 19, paragraph 5, of the Law on Participation of Members of the Croatian Armed Forces, Police, Civil Protection and Civil Servants in Peacekeeping Operations and the Other Activities Abroad (*Official Gazette* No. 33/2002).

## **2. Article 2: Minimum age for compulsory recruitment**

### **Measures taken, including those of a legislative, administrative or other nature, to ensure that persons who have not reached the age of 18 are not compulsorily recruited into the armed forces**

#### **A. The process of compulsory recruitment (i.e. from registration up to physical integration into the armed forces)**

22. The concept of “military service” in Croatian law requires definition. The Defence Law defines it in article 24 as follows: “Military service is the duty to prepare, qualify and organize all capable Croatian citizens for performing duties within the armed forces and participating in military defence”. Article 25 of the Defence Law stipulates that the institution of military service consists of compulsory recruitment, compulsory military service and compulsory service in the reserve forces of the armed forces.

23. Pursuant to article 30 of the Defence Law, compulsory recruitment begins in the calendar year in which a person (only male) reaches the age of 18 and ends at the start of the military or civilian service, i.e. with the inactivation or lapse of service obligation in accordance with the provisions of the Defence Law. Pursuant to article 31 of the Defence Law during the conscription obligations the conscript is subject to:

- (a) Entry into the Military Registry (in local recruiting offices representing civilian bodies within the Ministry of Defence);
- (b) Medical and other examinations and psychological tests conducted in civilian medical institutions (authorized medical institutions) for determining medical capabilities;
- (c) Recruitment at the conscript committee (also a civilian organizational unit of the Ministry of Defence) which assesses the capability for military service and determines the branch, i.e. the service where the conscript is to perform his military service;
- (d) Commencement of his military or civilian service;
- (e) Response to a general or individual call and to other duties stipulated by law.

24. Pursuant to data from the Ministry of Internal Affairs, the local recruitment offices enter recruits into the registry in the year in which the recruits reach the age of 18. To make entries into the registry the local recruitment offices call recruits by a general or individual call to report personally at the time and place determined through the call. The call shall emphasize that the person called is obliged to carry a personal ID card or other document enabling identification, including the age of the called person.

25. People staying abroad are not called, but are entered into the registry pursuant to data received from Croatian diplomatic missions or consular offices.

26. Medical and other examinations and psychological tests are conducted pursuant to the Regulations on Standards and Procedures for the Assessment of the Medical Capability of Conscripts for National Service.

27. National service cannot be performed by a recruit who has not reached the age of 18. As a rule he is sent to service in the calendar year in which he reaches the age of 19 and then he becomes a conscript. The final age limit for sending recruits to perform military service is the end of the calendar year when the recruit reaches the age of 30.

28. From the aforementioned it is noticeable that Croatia has regulated the military service issue so that a person younger than 18 cannot join the armed forces.

#### **B. Documents considered reliable and which are required to verify age prior to acceptance into compulsory military service**

29. To make entries into the registry the local recruitment offices call recruits by a general or individual call to report personally at the time and place determined through the call. As mentioned above, the call shall emphasize that the person called must carry an

identification card or other document enabling the valid identification of the called person with details of the year of birth.

### **C.Any legal provision enabling the age of conscription to be lowered in exceptional circumstances (e.g. state of emergency)**

30. There is no provision in Croatian law authorizing lowering of the age of conscription in exceptional circumstances.

### **Article 3: Minimum age for voluntary recruitment**

31. Croatian legislation does not recognize the institution of “voluntary recruitment” (“enlisting”).

### **Minimum age of entry into schools operated by or under the control of the armed forces**

32. Croatia has no high schools operated by or under the control of the armed forces within the meaning of article 3, paragraph 5, of the Protocol. Nevertheless, pursuant to article 4 of the Law on the Service in the Armed Forces of the Republic of Croatia (*Official Gazette* Nos. 33/2002, 58/2002 and 175/2003) a conscript is also a cadet who is defined as a “person educated at a military school under a contract of education”, but the point here is that a person of age is educated at university (faculties) for the requirements of the Croatian Armed Forces.

### **Article 4: Armed groups**

#### **Armed groups operating on/from the territory of the State party or with sanctuary on its territory**

33. There are no armed groups operating on Croatian territory, so there is no child recruitment on Croatian territory (see above).

#### **Adoption of legal measures which aim at prohibiting and criminalizing the recruitment and use in hostilities of children under the age of 18 by armed groups, and the relevant judicial decisions**

34. Under article 4, paragraph 2, of the Protocol, States parties shall take all feasible measures to prevent the recruitment and use of persons by armed groups, including the adoption of legal measures necessary to prohibit and criminalize such practices.

35. The Croatian criminal law system does not have any special provisions that may be applicable should such a situation arise in Croatia because, as described above, there is no legal possibility of child recruitment on Croatian territory and the criminal justice authorities have never encountered criminal recruitment or other such acts by armed groups. Furthermore, Croatia has no information or indication that armed groups or foreign States are recruiting children on Croatian territory.

### **Article 5: Application of Croatian law, international instruments and international humanitarian law**

#### **Provisions of Croatian legislation or international instruments and international humanitarian law applicable in Croatia which are more conducive to the realization of the rights of the child, and status of ratification by Croatia of the main international instruments concerning children in armed conflict**

36. At the national level, the Constitution of Croatia and numerous legislative texts guarantee children’s rights in the various areas of life.

37. In the first place, the Constitution of Croatia contains a number of provisions specifically concerning the protection of children and young people. Article 62 of the Constitution of Croatia gives general protection to children; article 63 regulates the responsibility of parents and the State towards a child; article 64 of the Constitution of Croatia emphasizes special protection of children and young people at work; and article 65 of the Constitution of Croatia guarantees the right to an education for children and young people.

38. There are also numerous laws which provide for specific child protection, including the following:

The Family Law (*Official Gazette* Nos. 116/2003, 17/2004, 136/2004);

The Criminal Law (*Official Gazette* Nos. 110/1997, 27/1998, 129/2000, 51/2001, 111/2003, 105/2004, 84/2005);

The Criminal Procedure Law (*Official Gazette* No. 62/2003);

The Juvenile Court Law (*Official Gazette* Nos. 111/1997, 27/1998, 12/2002);

The Social Welfare Law (*Official Gazette* Nos. 73/1997, 27/2001, 59/2001, 82/2001, 103/2003, 44/2006);

The Law on Ombudsman for Children (*Official Gazette* No. 96/2003);

The Children’s Allowance Law (*Official Gazette* No. 94/2001);

Taxation laws (specifically the Income Tax Law, *Official Gazette* No. 177/2004) etc.

39. Among the international human rights and humanitarian law instruments ratified by Croatia which are pertinent for the realization of the rights of children, the following may be mentioned:

International Convention against the Recruitment, Use, Financing and Training of Mercenaries (New York, 4 December 1989);

Convention on the Prevention and Punishment of the Crime of Genocide (Paris, 9 December 1948);

Geneva Conventions of 12 August 1949;

Convention on the Prohibition of the Development, Production and Stockpiling of Bacteriological (Biological) and Toxin Weapons and on their Destruction (London, Moscow and Washington, 10 April 1972);

Convention on Prohibitions or Restrictions on the Use of Certain Conventional Weapons Which May be Deemed to be Excessively Injurious or to Have Indiscriminate Effects with Protocols I, II and III, Geneva, 10 October 1980;

Protocol on Blinding Laser Weapons (Protocol IV to the Convention on Prohibitions or Restrictions on the Use of Certain Conventional Weapons Which May be Deemed to be Excessively Injurious or to Have Indiscriminate Effects) (Vienna, 13 October 1995);

Protocol on Prohibitions or Restrictions on the Use of Mines, Booby-Traps and Other Devices (Amended Protocol II to the Convention on Prohibitions or Restrictions on the Use of Certain Conventional Weapons Which May be Deemed to be Excessively Injurious or to Have Indiscriminate Effects), Geneva, 3 May 1996;

Convention on Prohibitions or Restrictions on the Use of Certain Conventional Weapons Which May be Deemed to be Excessively Injurious or to Have Indiscriminate Effects (Geneva, 10 October 1980), Amendment of article 1, Geneva, 21 December 2001;

Convention on the Prohibition of the Use, Stockpiling, Production and Transfer of Anti-Personnel Mines and on their Destruction (Ottawa, 18 September 1997);

Convention on the prohibition of the development, production, stockpiling and use of chemical weapons and on their destruction (Paris, 13 January 1993);

ILO Convention concerning the Prohibition and Immediate Action for the Elimination of the Worst Forms of Child Labour (Geneva, 17 June 1999) etc.

## **Article 6: Measures of implementation**

### **Measures adopted by Croatia to ensure the effective implementation and enforcement of the provisions of the Protocol**

#### **A. Any review of domestic legislation and amendments introduced**

40. All Croatian legislation complies with the obligations contained in the Protocol as a result of regular and thorough review of the domestic constitutional and legal arrangements and their compliance with the international legal obligations of Croatia.

#### **B. Legal status of the Protocol in national law and its applicability to domestic jurisdiction**

41. As stated above regarding applicability of the Protocol in Croatia, according to article 140 of the Constitution of Croatia (*Official Gazette* Nos. 41/2001 and 55/2001), international agreements concluded, ratified and published in accordance with the Constitution and which are in force form a part of the internal legal order and have precedence over the laws in the hierarchy of legal acts. Hence, provisions of international agreements and treaties which are not in compliance with the internal legislation in force become directly applicable by virtue of the Constitution. Since the Protocol entered into force in Croatia on 13 June 2002, the rights protecting children under the Protocol are applicable.

#### **C. Governmental departments or bodies responsible for the implementation of the Protocol and their coordination with regional and local authorities, as well as with civil society**

42. The provisions of the Protocol address on the one hand the procedure for recruiting soldiers into the army and on the other international cooperation in the rehabilitation and social reintegration of persons who are victims of acts contrary to the Protocol.

43. Under the provisions of article 80 of the Constitution of Croatia, the Croatian Parliament decides on war and peace and maintains civil control over the armed forces and the security services of the Republic of Croatia.

44. Under the provisions of article 98 of the Constitution of Croatia, the President of the Republic and the Government of the Republic of Croatia cooperate in the formulation and execution of the foreign policy.

45. The ministries responsible for implementation of the Protocol at a national level are the Ministry of Defence and Ministry of Health and Social Welfare. Ministries responsible for certain other aspects of national implementation are: Ministry of the Family, Veterans Affairs and Intergenerational Solidarity; Ministry of Foreign Affairs and European Integration, as well as the Office of the Government of Croatia for Human Rights.

#### **D. Mechanisms and means used for monitoring and periodically evaluating the implementation of the Protocol**

46. In Croatia national constitutional and legal arrangements are regularly and thoroughly reviewed, based on the experiences and implementation of regulations from the area of competence of ministries responsible for implementation of the Protocol at national level in order to apply appropriate legislative, administrative, judicial and other measures if necessary.

### **E. Measures adopted to ensure the training of peacekeeping personnel on the rights of the child, including the provisions of the Protocol**

47. Every member of the armed forces acquires a basic knowledge in international humanitarian law and in the law of armed conflict, including children's rights, during regular training activities provided at the various stages of Croatian military service. Training levels are: conscripts; soldiers; non-commissioned officers; officers; participants in international activities (NATO/PfP, United Nations) and legal issues officers. Methods of education are: education in military educational institutions; seminars; practical training - exercises and written documentation (manuals, handouts, etc.).

48. Pursuant to the recommendations of the Committee on the Rights of the Child on the initial report of Croatia submitted by the Government of Croatia as a State party under article 44 of the Convention on the Rights of the Child (CRC/C/15/Add.52, para. 24) the education curricula of the officers of the Croatian Armed Forces include topics relating to the treatment of civilians in armed conflicts. Within this education the following issues are dealt with:

General principles and starting points of the Geneva and the Hague Conventions;

Basic prohibitions concerning the objective, weapons and tactics of the armed forces;

Proper treatment of prisoners of war and other prisoners and members of protected categories.

49. Croatian peacekeeping forces are given special training that reflects the Croatian desire to deploy qualified personnel on peace missions. The rights and special needs of children in armed conflicts are an integral part of the training programme which is conducted in the International Military Operations Centre of the Croatian Armed Forces (IMOC). Its task is to provide for the following:

Training of participants in international activities;

Preparation, training, deployment, replacement, observation of participants in international activities;

Peacekeeping/peace support operations, joint exercises in NATO/PfP, humanitarian aid operations, natural disasters, etc.;

Cooperation with similar centres in other countries.

50. IMOC fulfils its tasks in cooperation with the International Committee of the Red Cross, the United Nations and NATO.

### **F. Dissemination in all relevant languages of the Protocol to all children and adults, notably those responsible for recruitment, and the training offered to all professional groups working with and for children**

51. Those responsible for recruitment are educated, during basic and further officer training, in international humanitarian law and human rights according to the procedures mentioned above.

52. Croatian ministries, government offices and State administrative offices, as well as professional groups working with and for children in Croatia, including NGOs, undergo specific training according to their role in the national implementation of the Protocol.

53. The text of the Protocol was published in both the English and Croatian languages (the latter being the official language in Croatia) in the *Official Gazette*, as stated above, and the text of the Protocol is available in printed version and on the website.

## **Article 7: International cooperation**

### **Information on cooperation in the implementation of the Protocol, through both technical cooperation and financial assistance, and description of multilateral, bilateral or other programmes**

54. The activities by Croatia to promote implementation of the Protocol take place at several levels.

55. The Government of Croatia makes every effort to integrate children's rights and the issue of child soldiers into its international activities, supported by NGOs, bearing in mind its recent history. During the war in Croatia approximately 1 million children were exposed to the conflict, and estimates indicate that the war affected the development of 400,000 children who were directly exposed to bombardment, or who saw their parents and beloved ones die or be wounded, while 50,000 children were directly exposed to war; 303 children were killed and 1,280 children were wounded, of whom 315 have remained permanently disabled; 4,445 children lost a parent, while 131 children lost both parents (second report of Croatia under article 44 of the Convention on the Rights of the Child; CRC/C/70/Add.23, 28 November 2003). This wartime suffering of children left other long-term consequences such as post-traumatic stress disorder, somatic and psychological symptoms. As a result, special attention has been provided to child victims through the national programme led by the Ministry of the Family, Veterans Affairs and Intergenerational Solidarity.

56. The above-mentioned activities are supported, as they were during wartime, by UNICEF, ICRC and UNHCR, with which Croatia continues to work closely in the international humanitarian field.

57. At the political level Croatia calls for ratification of the Protocol both in bilateral encounters and in multilateral forums such as the General Assembly and the Human Rights Council as well as in other international organizations and conferences advocating the protection of children's rights, including in the context of prevention of armed conflicts and disarmament.

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