



Convention on the Rights of the Child

COMMITTEE ON THE RIGHTS OF THE CHILD

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

Initial reports of States parties due in 2005

THE FORMER YUGOSLAV republic of macedonia*

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I. INTRODUCTION

1. The Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict was adopted on 25 May 2000 in New York, while the Republic of Macedonia ratified the said Protocol on 12 January 2004. In pursuance with Article 118 of the Constitution of the Republic of Macedonia, "international agreements ratified in accordance with the Constitution are part of the internal legal order and cannot be changed by law."

2. Upon its ratification, the Republic of Macedonia did not place any reservations on the text of the Protocol.

3. The Initial Report on the Protocol has been prepared in accordance with the General Recommendations of the Committee on the Rights of the Child of 19 October 2007, relating to the form and content of reports that countries are obliged to present 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.

4. The following Ministries have been involved in the preparation of the Report: Ministry of Defense, Ministry of Justice, Ministry of the Interior, Ministry of Labor and Social Policy, the Ministry of Health.

5. The ratification of the Protocol by the Republic of Macedonia, as an additional element of the Convention on the Rights of the Child, under which state-parties are obliged to adopt legislative framework for protection of children from any form of involvement in armed conflicts and from the damaging consequences thereof on the children's psychophysical development, aiming at preventing their abuse as a target of attacks, is an important step in the process of effective application of the Convention.

6. According to the statistics on registered cases of direct involvement or on any form of involvement of minors in armed conflicts, the relevant bodies have not registered any such cases.

7. The problem of involvement of children in armed conflicts has not been addressed from the health care aspect thus far. Owing to limited resources and available data, collective violence and certain forms of institutional violence still cannot be presented in an appropriate manner. However, new Law on Records Keeping in the Area of Health Care is currently drafted, which inter alia will

also cover records of victims in armed conflicts.

II. PREVENTION(arts. 1,2,4, para. 2 and art. 6, para. 2)

Article 1

8.The Law on Defense of the Republic of Macedonia and the Law Amending and Supplementing the Law on Defense (Official Gazette of the Republic of Macedonia No. 42/01, 5/03, 58/06 and 110/08) and the Law on Service in the Army of the Republic of Macedonia (Official Gazette of the Republic of Macedonia No. 62/02, 98/02, 25/03, 71/03, 112/05 and

134/07) have relevant provisions on the involvement, recruitment, training and use of children in hostilities in and outside the national territory, as well as provisions regarding the pursuance of the goal of not allowing involvement in hostilities by members of the armed forces that have not attained 18 years of age.

9.Namely, the amendments and supplements of the Law on Defense, dated May 2006, envisage that all nationals of the Republic of Macedonia from 18 to 55 years of age shall be subject to the army service duty (Article 3 of the Law on Defense).

10.Citizens have the right to voluntarily serve the army in a manner and under conditions established by the Law on Defense. Voluntary army service in the Republic of Macedonia lasts three months. The army service duty of the citizens consists of the duty to serve the reserve forces.

11.All nationals of the Republic of Macedonia qualified as “capable of army service”, may upon their own request serve the army after having attained 18 years of age.

12.Citizens that would like to voluntarily fulfill army service are informed prior to starting the army service about the type of forces, i.e. the department where the person will fulfill army service.

13.Citizens need to prove the age submitting a document issued by the competent department of the Ministry of the Interior.

14.The medical and psychological examination of citizens for purposes of establishing whether citizens are capable of serving the army is done by relevant medical facilities determined by the Minister of Defense, upon agreement with the Minister of Health. Based on the findings after the medical exams and psychological evaluation, a committee established by the Minister of Defense assesses the capability of citizens to serve the army.

15.The commission establishes the type of forces the citizens qualified as “capable for army service” will serve. The type, service and military records specialty of the citizens is determined based on the health and physiological capabilities, type and level of education, profession, skills and sport activities of importance to the Army.

16.The Law on Service in the Army of the Republic of Macedonia inter alia regulates the manner of admission of persons to serve the Army. One of the general conditions for a person to be admitted for service in the Army is to be of full legal age, while according to the Constitution and legal provisions of the Republic of Macedonia legal age is attained at 18 years.

17.In light of the above stated it can be concluded that there are no members of the Army of the Republic of Macedonia who are below 18 years of age.

18.As regards provisions contained in Article 4 of the Protocol, Article 20, paragraph 4 of the Constitution of the Republic of Macedonia prohibits military or paramilitary groups that are not part of the armed forces of the Republic of Macedonia.

19.This helps prevent involvement of children below 18 years of age in armed groups separate from the armed forces.

20.In accordance with the Protocol provisions, prevention of violence against children and prevention of their involvement in armed conflicts is a priority in the Republic of Macedonia and this primarily includes strengthening primary prevention through introduction of education programs for children teaching them how to recognize threatening situations and giving them the skills for protection from abuse.

21.The role of the Ministry of the Interior is especially important as regards measures undertaken for the prevention of involvement of children in armed conflicts. Namely, the employees of the Ministry of the Interior had regularly participated in the process of preparation of the Law on Juvenile Justice, Which was adopted on 4 July 2007 and which will enter into force on 1 January 2009. This Law introduces reforms in the juvenile legislation of the Republic of Macedonia and helps establish legal-institutional network for a new consistent and codified system of juvenile justice of the Republic of Macedonia, aiming at separating juveniles from the substantive and procedural legal treatment of adult perpetrators of crimes. Furthermore, the Law operationalizes the standards established under ratified international conventions and documents on the rights of the child- the UN Convention on the Rights of the Child and the Protocol on Involvement of Children in Armed Conflict and the Protocol on Trafficking in Children, Child Pornography and Child Prostitution, the UN Riyadh Rules on the prevention of juvenile delinquency of 1990 and the Council of Europe Recommendation No. II (87)20 on social reaction to juvenile delinquency.

22.According to this Law, in the context of the 2008 Annual Training Program, the relevant professional services have envisaged (and partially realized) training for the uniformed police officers and inspectors working in this field; then they undertake activities for training police officers for protection of children and minors and for developing the sense for a special approach towards the procedure for minors, in which respect the focus is on respect and protection of the rights of the child. Protection of children in armed conflicts is also included in this context, as well as their recruitment in the armed forces at the age below 18 years.

23.The Ministry continually cooperates with institutions working in this area, primarily with the Social Work Centers, health care

institutions, Basic Public Prosecutor's Offices, juvenile justice judges, and non-governmental organizations and associations of citizens working in the area of protection of children and minors.

24. Furthermore, in the framework of the Project "Cooperation of Police with Local Population", there are activities for advancement of the cooperation with the local communities, aiming at establishing active and equal partnership relations between the police and the communities in accomplishing the main goal of prevention, reduction, detection and suppressions of asocial conduct among the minors, as well as their protection from influences that would cause long terms consequences that could damage their growth, development, education, peace and security.

25. An important novelty in this respect is the introduction of specific jobs at the Ministry of Prevention inspectors the main goal of whom is to pursue continual communication with the bodies of the local self-government, with the non-governmental organizations, institutions in the

area they cover, then in dealing with specific security problems, including involvement of juvenile population in such problems. In addition, prevention inspectors are actively involved in implementing preventive campaigns by preparing handbooks, publications, leaflets, posters and other type of promotional material.

26. The Ministry of Labor and Social Policy designs the policies for care and protection of children in the Republic of Macedonia based on the principle of the best interest of the child, in pursuance with the UN Convention on the Rights of the Child.

27. According to the Constitution, the protection of the rights and interests of children is regulated under the Law on Protection of Children, then the Law on the Family, and the Law on Social Protection.

28. Children at risk from disrupted family relations (parentless children, children without parental care, neglected children, abused children and socially deprived children), children with disrupted behavior, and children with mental or physical disabilities, i.e. children for whom special measures are undertaken for their reintegration, rehabilitation and social inclusion are provided with full scope protection in the Republic of Macedonia.

29. The continual protection of children in the Republic of Macedonia is an organized system of measures focused on children, which are adequate and which also include protection of children involved in armed conflicts.

III. PROHIBITION AND OTHER RELATED ISSUES(arts. 1, 2 and 4, paras. 1 and 2)

30. Besides the provision contained in the Law on Defense which sets the minimum age limit of 18 years for participation on the armed forces, the Macedonian legislation does not contain provisions envisioning sanctions for direct or indirect involvement of children in armed conflicts, or provisions sanctioning persons that involve children in armed conflicts.

31. Aiming at sanctioning this type of children's abuse, and at full implementation of the Protocol provisions, in the future, the greatest attention will be focused on adoption of provisions regulating this matter.

IV. PROTECTION, REHABILITATION AND REINTEGRATION(art. 6, para. 3)

32. In pursuance with the competencies of the in line state bodies, the following types of measures are undertaken in the context of respecting the principle of the best interests of the child, then protection of children from eventual abuse by their involvement in armed conflicts, and for purposes of their later rehabilitation and reintegration:

(a) Monitoring the social development, with a focus on the capabilities and skills for socialization among children of the pre-school and school age through programs of home-school partnership promoting parents' involvement;

(b) Education of parents in promoting relevant parental skills and disciplining children without use of violence, and reeducation of parents perpetrators of domestic violence;

(c) Parenting training programs - aimed at improving the emotional relations between parents and their children, encouraging parents to apply consistent methods in the children's development, developing self-control in education and programs of family therapy for improvement of relations and communication among and between family members;

(d) Program of house calls - regular visits by medical or health care professionals to the houses of families that need support and assistance in raising the child, or to families where there is an established possibility for ill-treatment of the child - visits that are useful to prevent delinquent conduct;

(e) Adoption of clear policies and strategies for dealing with all forms of violence against children and their abuse, through preparation of instructions and treatment protocols for children - victims of violence, developing preventive services and services for treatment of children-victims of violence and abuse, by a relevantly trained team of professionals for purposes recording such cases, referring to and providing care for children-victims;

(f) Drafting of guidelines on the exercise of the rights of the child in various sectors, as well as mechanisms for cooperation among relevant institutions, monitoring and evaluation of the quality of services for children -victims of violence and abuse, of direct or indirect involvement in armed conflicts;

(g) Improvement of the monitoring of victims of abuse in armed conflicts in given periods, and indication of additional treatments, such as psycho-therapeutic and social therapeutic procedures that would ensure further unimpeded development of the child in the context of his/her family.

33. In respect of the legal framework for protection of the best interest of the child, the Macedonian legislation envisages numerous measures for protection of children - victims of crimes at all stages of the criminal procedure.

34. In accordance with the provisions of the relevant Macedonian legislation, children-victims are represented by their legal representatives through whom they are informed about their rights, role and goals, the terms and the progress of the procedure, and about the decision in their case (Article 50 of the Law on Criminal Procedure). The following is envisaged: "If the damaged person is a minor or a person who has been deprived of legal capacity, his/her legal representatives is authorized to submit all statements and undertake all activities that the damaged person is entitled to under this Law." (Article 60 of the Law on Criminal Procedure).

35. Support to children-victims during the legal procedure is ensured by the possibility that "in a procedure instituted upon the request of the damaged party in the capacity of a plaintiff against a crime for which the law prescribes a prison sentence of more than five years, upon his/her request the court may appoint an attorney if this is in the interests of the procedure and if the damaged party in his/her capacity of a plaintiff in light of his/her material status cannot bear the costs of legal representation" (Article 61, paragraph 2 of the Law on Criminal Procedure).

36. If the child-victim institutes a civil law procedure for damage compensation, in this case too the procedural rules allow exemption from payment of costs, envisaging appointment of a legal representative from the ranks of lawyers (Articles 163 and 165 of the Civil Procedure Law).

37. Consequently, children-victims of crimes are ensured professional and free of charge assistance in the course of civil and criminal law procedures.

38. Aiming at avoiding delays in the cases and in the enforcement of decisions or orders awarding compensation to children-victims the Law on Criminal Procedure envisages that the „in the verdict pronouncing the persons charged guilty, the court shall decide partially or fully on the damage compensation claim“ (Article 102, paragraph 2).

39. The uncertainty regarding the exact age of the victims may not impede the start of the criminal investigation, including the investigation aiming to establish the age of the victim in which respect the Law on Criminal Procedure envisages a preliminary investigative procedure in which "the Ministry of the Interior may undertake the necessary measures to establish the identity of persons and of objects" (Article 144, paragraph 2, subparagraph 4). In this regard, the determination of the identity and age of the victim is not a condition for the institution of the investigation, but is only one of the numerous envisaged preliminary investigative and investigative measures.

40. In procedures involving children-victims of crime, special attention is paid to the provisions of the Law on Criminal Procedure defining the institute of witness protection, protection of collaborators of justice and victims, as well as the provisions of the Law on Witness Protection.

41. In the context of activities undertaken for purposes of amending and supplementing the criminal legislation, aiming at protecting the minor-victim of trafficking in human beings, of violence or sexual abuse, it is envisaged to conduct the hearing of victims through the investigative judge, pedagogue, psychologist or other professional, while the court may decide whether the hearing will be audio-visually recorded so that the recorded material is used as evidence in the procedure, or the witness testimony will be followed live with the use of technical communication means (video conference, or other type of video links).

42. The new Law on Juvenile Justice (adopted in July 2007, and will be applied on 1 January 2009) envisages that official persons participating in the procedures must have specific knowledge and experience in the area of children's rights, if the victims in the procedure are children. Hence, judges, public prosecutors, lawyers, official persons of the Ministry of the Interior and social workers must attend special training and acquire qualifications that would enable provision of relevant protection and attention to children-victims of crimes.

43. The Law on Juvenile Justice envisages special protection of children at risk, i.e. in cases in which the juvenile is "a user of drugs, psychotropic substances or alcohol, or is a child with development impediments, child-victim of violence or educationally and socially neglected child in situation in which it is difficult or impossible that the family performs the educational

function, which owing to such a situation is or might be in collision with the law" (Article 12). A special procedure is envisaged in which the Social Work Center will have a central role, in cooperation with other relevant institutions, in order to provide necessary protection measures for such persons.

44. The Law envisages that the procedures against crimes in which the minor is a victim are urgent. In this respect, the minor victim may be heard as a witness only if this does not have a detrimental effect on the minor's psycho-physical development, two times as a witness, and exceptionally third time. Depending on the age and level of development, the court is to conduct the hearing in the presence of a psychologist, pedagogue or another professional. The hearing may be conducted through use of technical means for transmission of image and sound, without the presence of the parties or other persons involved in the procedure, in a separate room, while questions are asked via the pedagogue, psychologist or another professional (Article 138).

45. The minor victim must have a representative as of the first hearing of the person indicted and in the absence of such representative one is appointed *ex officio* by the President of the court, while the costs of the legal representation are covered by the court budget.

46. It is envisaged to establish a Compensation Fund, for purposes of compensation of damages to minor victims or minors damaged by the crime of violence or other crimes of individual or group violence. The Fund will reach 2% of the funds collected under the Budget of the Republic of Macedonia through payment of fines prescribed by courts for crimes and misdemeanors, paid in the previous year. (Article 141). The minor established as a victim under a final court decision, or a minor for whom in a final court decision it has been established that he/she is a victim i.e. damaged by the crime or other crimes of violence may submit a damage

compensation claim to the Compensation Fund through the relevant court, in case the damage compensation claim cannot be enforced even after the second attempt from the property of the perpetrator of the crime (Article 142).

V. INTERNATIONAL ASSISTANCE AND COOPERATION(art. 7, para. 1)

47.As regards the efforts to strengthen the fight to suppress abuse of children by their direct or indirect involvement in armed conflicts, the Republic of Macedonia has clearly demonstrated its will to support such efforts, both at the national and at the global level.

48.Namely, at the meeting on child soldiers held on 26 September 2008 at the margins of the UN General Assembly in New York, the Republic of Macedonia supported the Paris Commitment adopted at last year's Paris Conference entitled "Let Us Free the Children of War", becoming thus part of the group of 76 countries joining the Commitment.

49.Furthermore, the Republic of Macedonia strongly supports the work of the UN Security Council Working Group on Children and Armed Conflict and of the Special Representative of the Secretary General for Children and Armed Conflict, Ms. Radhika Coomaraswamy.

VI. OTHER LEGAL PROVISIONS

(art 5)

50.In addition to the Law on Defense and the Law on the Service in the Army of the Republic of Macedonia , other laws relevant in terms of protection and preventing children under 18 years of age from being involvement in any armed or other similar conflicts are: Law on Witness Protection (Official Gazette of the Republic of Macedonia No. 67/2005 , 26 May 2005 and No. 58/05, 19 July 2005); Law on Criminal Procedure (Revised text) (Official Gazette of the Republic of Macedonia No. 15/05 dated 07 March 2005); Law on Juvenile Justice (Official Gazette of the Republic of Macedonia No. 87/07, dated 12 July 2007); Criminal Code (Official Gazette of the Republic of Macedonia Nos. 37/96, 80/99,4/02,43/03,19/04 and 81/05, 60/2006, 73/2006 and the Decisions of the Constitutional Court No. U228/2005-0-1).
