



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 2007

Ukraine *

[31 July 2008]

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Introduction

1. The present report was prepared by the Ukrainian Ministry for Family, Youth and Sport, with the help of the relevant ministries. The report on the implementation of 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”) and the associated recommendations of the Committee on the Rights of the Child will be circulated to those government agencies.

2. The Optional Protocol, which has been ratified by Ukraine, has equal status with a domestic law, under article 9 of the Constitution:

“Applicable international agreements that the Verkhovna Rada of Ukraine agrees are binding are part of Ukrainian domestic legislation.

“International agreements that contravene the Constitution can be entered into only once the relevant amendments to the Constitution have been made.”

3. The legislative framework relating to the involvement of children in armed conflict is as follows:

(a) International legal foundations

Convention on the Rights of the Child

Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict

(b) Domestic legislation

Constitution of Ukraine

Child Protection Act

Military (General Conscription and Service) Act

Criminal Code

4.Children are a specific sociodemographic group. Identifying their place and role in the adult world and ensuring their protection and well-rounded development are some of the most complex problems, and the authority of a modern country depends upon them being resolved. Therefore, the first thing to be done when shaping and developing identity is to guarantee those rights and freedoms of the child set forth in the Convention on the Rights of the Child.

5.In the eyes of the law, a child is an independent legal person. Therefore, a whole range of civil, political, economic, social and cultural rights are conferred on children.

6.Information on the Optional Protocol has been disseminated to the public at large through the media, international and national conferences, round tables, seminars and training sessions. In Ukraine, the Ministry for Family, Youth and Sport, the Ministry of Defence, the Ministry of Finance, the Ministry for Education and Science and the State Committee for Ethnic and Religious Affairs disseminate the Optional Protocol.

Article 1

States p arties shall take all feasible measures to ensure that members of their armed forces who have not attained the age of 18 years do not take a direct part in hostilities.

7.Under Ukrainian legislation, in particular article 30 of the Child Protection Act, children are prohibited from taking part in military operations or armed conflict.

Article 2

States p arties shall ensure that persons who have not attained the age of 18 years are not compulsorily recruited into their armed forces.

8.The Constitution provides for military conscription with a view to preparing the population to defend the country. Under article 65 of the Constitution, citizens are obliged to defend their homeland and Ukrainian independence and territorial integrity, and respect its national symbols. Citizens perform military service in accordance with the law and are bound by the Constitution to defend their homeland and Ukrainian independence and territorial integrity.

9.Children under the age of 18 years are not conscripted into the Ukrainian Armed Forces. Under article 15 of the Military (General Conscription and Service) Act, physically fit males who have attained the age of 18 by the day of their enlistment but are not yet 25 years of age and who do not have the right to be exempt from or to defer national service are called up during times of peace.

10.Unlawful conscription for national service is punishable under the Code of Administrative Offences.

Article 3

1. States p arties shall raise the minimum age for the voluntary recruitment of persons into their national armed forces from that set out in article 38, paragraph 3, of the Convention on the Rights of the Child, taking account of the principles contained in that article and recognizing that under the Convention persons under the age of 18 years are entitled to special protection.

2. Each State p arty shall deposit a binding declaration upon ratification of or accession to this Protocol that sets forth the minimum age at which it will permit voluntary recruitment into its national armed forces and a description of the safeguards it has adopted to ensure that such recruitment is not forced or coerced.

3. States p arties that permit voluntary recruitment into their national armed forces under the age of 18 years shall maintain safeguards to ensure, as a minimum, that:

(a) Such recruitment is genuinely voluntary;

(b) Such recruitment is carried out with the informed consent of the person ' s parents or legal guardians;

(c) Such persons are fully informed of the duties involved in such military service;

(d) Such persons provide reliable proof of age prior to acceptance into national military service.

4. Each State p arty may strengthen its declaration at any time by notification to that effect addressed to the Secretary-General of the United Nations, who shall inform all States p arties. Such notification shall take effect on the date on which it is received by the Secretary-General.

5. The requirement to raise the age in paragraph 1 of the present article does not apply to schools operated by or under the control of the armed forces of the States p arties, in keeping with articles 28 and 29 of the Convention on the Rights of the Child.

11.The Child Protection Act governs the right of children to life, inviolability and personal freedom:

Every child has the right to life, health and the inviolability of the person

The State guarantees the inviolability of the person and protection from physical, sexual and mental abuse, financial exploitation, coercion or involvement in criminal activity and other types of activity that violate the rights of the child accorded by the Constitution

12. The Military (General Conscription and Service) Act regulates conscription and military service in Ukraine.

13. Ukrainian legislation identifies the following main (insofar as the Optional Protocol is concerned) categories of citizens who can be found in the country's armed forces:

Those called up for national service in times of peace after reaching 18 years of age (Military (General Conscription and Service) Act, art. 15)

Those enlisted (contractually) for military service after reaching 19 years of age (Military (General Conscription and Service) Act, art. 20)

Cadets or students of higher military academies or higher education institutes with military studies departments enlisted for military service or training on condition that they turn 17 in the year that they enrol in training (Military (General Conscription and Service) Act, art. 20)

14. Currently, no individuals under the age of 17 are studying in higher military academies. Out of the above three categories, only those enlisted for military service contractually are subject to the Optional Protocol, as they correspond to the definition given in the Optional Protocol of "voluntary recruitment into their national armed forces". Those admitted to military service for training are not governed by the Optional Protocol, under article 3, paragraph 5, which states:

"The requirement to raise the age in paragraph 1 of the present article does not apply to schools operated by or under the control of the armed forces of the States parties, in keeping with articles 28 and 29 of the Convention on the Rights of the Child."

Article 4

1. Armed groups that are distinct from the armed forces of a State should not, under any circumstances, recruit or use in hostilities persons under the age of 18 years.

2. States parties shall take all feasible measures to prevent such recruitment and use, including the adoption of legal measures necessary to prohibit and criminalize such practices.

3. The application of the present article shall not affect the legal status of any party to an armed conflict.

15. Article 30 of the Child Protection Act sets forth the Ukrainian legal principles prohibiting child paramilitary organizations and groups and pro-war and violence propaganda. It is forbidden to involve children in military operations or armed conflict, set up child paramilitary organizations or groups or promote war and violence among children. The State is taking all feasible measures to ensure the protection of the rights of children in zones affected by military operation or armed conflict, and their care, giving them financial, medical and other kinds of assistance. No cases of children under the age of 18 being enlisted or forcibly recruited for use in armed conflict were recorded in the 2006–2007 period.

16. Setting up unlawful paramilitary or armed groups is punishable under article 260 of the Criminal Code:

The establishment of illegal paramilitary groups or participation in their activities is punishable by a prison term of 2–5 years

The establishment of illegal armed groups or participation in their activities is punishable by a prison term of 3–8 years

Leading, funding or supplying weapons, ammunition, explosives or military hardware to such groups is punishable by a prison term of 5–10 years

Participation within such groups in attacks on enterprises, establishments, organizations or the public is punishable by a prison term of 7–12 years

In the event that the acts set forth above cause fatalities or other serious consequences, they are punishable by a prison term of 10–15 years

Article 5

Nothing in the present Protocol shall be construed as precluding provisions in the law of a State party or in international instruments and international humanitarian law that are more conducive to the realization of the rights of the child.

17. With a view to protecting the rights and interests of children, Ukraine ratified the Convention on the Rights of the Child in September 1991. In April 2001, Ukraine adopted the Child Protection Act. The Act identifies child protection as a strategic, nationwide priority and, in order to guarantee children's right to life, health, education, social support and comprehensive development, lays down the core principles of State policy on child protection.

Article 6

1. Each State party shall take all necessary legal, administrative and other measures to ensure the effective implementation

and enforcement of the provisions of the present Protocol within its jurisdiction.

2. States parties undertake to make the principles and provisions of the present Protocol widely known and promoted by appropriate means, to adults and children alike.

3. States parties shall take all feasible measures to ensure that persons within their jurisdiction recruited or used in hostilities contrary to the present Protocol are demobilized or otherwise released from service. States parties shall, when necessary, accord to such persons all appropriate assistance for their physical and psychological recovery and their social reintegration.

18. The principles and provisions of the Protocol are widely covered in the national and regional media. The Convention on the Rights of the Child and the Optional Protocol, which have been ratified by Ukraine, are studied by pupils in years 5–9 under the non-compulsory subjects of children's rights, "Play by the rules", practical law and civic education, and by pupils in year 9 as part of the compulsory subject "The foundations of the law".

19. In general-education schools and vocational and technical institutes, the 2006/07 and the 2007/08 school years began with the taster sessions, "Justice and Law Day" and "Legal Education Week". The Nationwide Competition for Young Lawyers is being held for its fifth year. Such extracurricular activity groups as the Young Lawyers' Club are being run successfully: there are a total of 500 clubs in Ukraine. Student conferences, debates, round tables and meetings with representatives of law enforcement agencies, the justice system, figures from the arts world and well-known public figures are held.

20. Attention is drawn to the issue of children's rights, in particular to the Convention on the Rights of the Child and the Optional Protocol, during educational activities and as part of the further training of teachers and health professionals, child-welfare services and social service centres for families, children and young people. Representatives from the Government, local authorities and non-governmental organizations dealing with children's issues, and children themselves take part in the work of press clubs, press conferences and live children's rights broadcasts on television and radio. With a view to creating an environment conducive to the realization of children's rights and improving their legal education, "Solidarity for Children" days are held.

Article 7

1. States parties shall cooperate in the implementation of the present Protocol, including in the prevention of any activity contrary to the Protocol and in the rehabilitation and social reintegration of persons who are victims of acts contrary to this Protocol, including through technical cooperation and financial assistance. Such assistance and cooperation will be undertaken in consultation with concerned States parties and relevant international organizations.

2. States parties in a position to do so shall provide such assistance through existing multilateral, bilateral or other programmes or, inter alia, through a voluntary fund established in accordance with the rules of the General Assembly.

21. Ukraine is concerned by the massive impact that armed conflict has on children and condemns acts of a terrorist nature carried out in childcare centres, schools and hospitals in other countries. On the initiative of the Government of Ukraine, three groups of Iraqi children (109 individuals) who were living in a zone of armed conflict were offered medical services and social rehabilitation from September to November 2004. The case received broad media coverage, won public support and helped improve the international image of Ukraine.

22. In accordance with article 31 of the Child Protection Act, the Government — through the designated authorities — is taking every step necessary to ensure the protection of refugee children on Ukrainian territory. The migration authorities help to search for the parents or other legal representatives of refugee children separated from their families and place those children in appropriate children's homes or families. The tutorship and guardianship agencies act to place refugee children separated from their families in children's homes or foster families temporarily and arrange tutorship or guardianship of those children. They also help refugee children separated from their families to realize their rights.

23. There were 11 refugee children in children's homes in 2006, while in 2007 there were 22 children from other countries. The children were given appropriate medical, social and psychological assistance.

24. The Ukrainian Refugee Act sets forth the legal status of refugees in Ukraine, the procedure for acquiring, losing and removing refugee status. If refugee children who have been involved in armed conflict in their country of residence are on Ukrainian territory, they are given, where appropriate, the necessary psychological and social assistance in family support centres or social and psychological rehabilitation centres.

25. In June 2001, the Refugee Act was adopted, which harmonized the position of Ukraine with the Convention relating to the Status of Refugees. Under the Act, the rights and interests of refugee children on Ukrainian territory are protected by their legal representatives who assumed responsibility for their upbringing prior to the refugee's arrival in Ukraine — either voluntarily or according to the custom of the country of origin.

26. The paperwork for deciding whether to grant refugee status to a child is compiled on the basis of personal statements by the adult who has assumed responsibility for the upbringing of the child. Information on children who have not attained the age of 18 is gathered from one of the minor's legitimate representatives. If a child unaccompanied by parents or other legal representatives or separated from his/her family enters Ukrainian territory and expresses his/her intention to obtain refugee status or that intention is reported by others who are not the child's legitimate representatives, the officials of the Ukrainian Border Agency immediately notify the Migration Service and the tutorship and guardianship agency. The Migration Service, together with the tutorship and guardianship agencies, takes urgent steps to temporarily place that child in an appropriate children's home or family (art. 9).

27. The tutorship and guardianship agencies are the legal representative of refugee children separated from their families. They take measures to temporarily place children separated from their families in an appropriate children's home or family; establish tutorship or guardianship of such children; take part in the procedure for granting refugee status to a child; and help them realize their rights (art. 8). Where refugee children are placed in a family or a children's home, their interests are represented by foster parents, tutors or guardians appointed in accordance with Ukrainian legislation, representatives of children's homes or boarding schools, or of any other children's institution where the child is being cared for.

28. As well as compiling the paperwork to decide on granting refugee status to children separated from their families, the migration authorities help refugee children who have not yet attained the age of 18 and are separated from their families to trace their parents or other legal representatives (art. 11). Ukraine helps keep refugee families together. With a view to family reunification, the members of the family of persons granted refugee status in Ukraine have the right to enter the country and either obtain refugee status or freely leave the territory of Ukraine (art. 4). In order to provide humanitarian protection to asylum-seekers and refugees, an amendment is planned to existing legislation. Thus, the Ministry of Justice has drafted one bill on the legal status of foreigners and stateless persons (new edition) and another on refugees and persons who qualify for emergency or temporary protection in Ukraine. These bills provide for the introduction of temporary protection, the definition of procedures for the granting, loss or withdrawal of refugee status and implementation of safeguards that would ensure adequate protection for them.

29. Ukraine has ratified the Agreement on cooperation of Commonwealth of Independent States (CIS) member States on issues pertaining to the repatriation of minors to their State of permanent residence, signed on 7 October 2002 in Chişinău. In accordance with that agreement, the competent authorities of the CIS member States, on request, shall assist each other in recovering and repatriating children left without tutorship to their country of residence. Such cooperation on the repatriation of children will help prevent crime, both by children and against them.

30. Ukraine and the European Union signed an agreement on readmission, under which Ukraine undertakes to readmit asylum-seekers and migrants who have entered the European Union from its territory. The State Committee on Ethnic and Religious Affairs is the principal body tasked with considering applications for asylum and refugee assistance. The Committee receives the funding necessary to carry out the work in this field: its budget increased from 2.7 million hryvnias in 2004 to more than 8 million hryvnias in 2007. In early 2007, there were 2,275 refugees in Ukraine. Of these, 52 per cent came from Afghanistan, 28 per cent from the countries of the former Soviet Union, 13 per cent from Africa and 7 per cent from the Middle East, Asia and Europe. Of the refugees, 48 per cent were registered in Kyiv and the Kyiv region and 26 per cent in Odessa. In recent years, the number of refugees including refugee children registered in Ukraine has fallen.

Number of refugees according to age (data from the State Statistics Committee of Ukraine) (as on 1 January)

<i>Year</i>	<i>Total refugees</i>	<i>Including those below working age (0–15 years old)</i>
2005	2 459	625
2006	2 346	558

31. The statistics record the number of refugee children under the age of 15, i.e., below working age; there are no official statistics on refugee children under the age of 18. As of 1 January 2007, there were 535 refugee children under the age of 15 in Ukraine. The vast majority (464 individuals) of them were from Asia, 32 children were from Africa, while the only individuals from Europe (39) were from the Russian Federation. In accordance with article 19 of the Refugee Act, persons who have been granted refugee status are guaranteed the same rights and freedoms as Ukrainian citizens. In reality, however, refugees and asylum-seekers face many problems which must be resolved before they can fully enjoy their rights in accordance with national and international standards; in most cases, they do not have access to free interpreting services when applying for refugee status and their social and domestic issues go long unresolved.

32. Ukraine cooperates with other States, the Office of the United Nations High Commissioner for Refugees and other international organizations to address the causes of the refugee problem, improve refugees' financial situation and legal status and the return of refugees to their country of nationality (citizenship) or previous residence. International cooperation to address the problems of refugees is based on international treaties that the Verkhovna Rada has agreed are binding.

33. In 2006, 6,705,400 hryvnias were allocated from the State budget to provide aid to refugees and maintain temporary refugee housing centres; in 2007, the sum was 8,687,600 hryvnias.

34. Ukraine reaffirms its commitment to adhering to the Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict.