

STATE PARTY EXAMINATION OF AZERBAIJAN'S INITIAL REPORT ON THE OPTIONAL PROTOCOL ON THE INVOLVEMENT OF CHILDREN IN ARMED CONFLICT

**59TH SESSION OF THE COMMITTEE ON THE RIGHTS OF THE CHILD
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Contents

Opening Comments	1
General Measures of Implementation	2
Prevention.....	2
Prohibition and Related Matters.....	2
Protection, Recovery and Reintegration	3
International Assistance and Cooperation.....	4
Concluding Remarks.....	4

Azerbaijan ratified the Convention on the Rights of the Child (CRC) on 13 August 1992. On 18 January 2012, the Committee on the Rights of the Child (the Committee) examined the initial report of Azerbaijan on the Optional Protocol on the Involvement of Children in Armed Conflict (OPAC).

Opening Comments

The delegation of Azerbaijan was led by Ms Huseynova, the Head of the State Committee on Family, Women and Children Affairs. She was supported by a delegation consisting of the Ambassador, Permanent Representative of the Republic of Azerbaijan to the United Nations Office and Other International Organisations in Geneva, and of representatives of the Ministry of Internal Affairs, the Ministry of Education, the Ministry of Health, the Ministry of Economic Development the Ministry of Labour and Special Protection, the Ministry of Foreign Affairs, the Ministry of Finance, the Ministry of Justice, the Permanent Mission and the State Committee on Family, Women and Children Affairs of the Republic of Azerbaijan.

Ms Sandberg, the Committee Rapporteur for the OPAC, indicated that, although she appreciated the fact that the minimum age to enrol in the military in Azerbaijan was eighteen, underage recruitment was still an issue especially for children studying in military schools.

General Measures of Implementation

Legislation

The Committee expressed its concern about the lack of incorporation in the Criminal Code of some provisions embodied in the OPAC, since those provisions must be included in the national legislation. The delegation answered that the Constitution affirmed the supremacy of international conventions over domestic law, even though the provisions of international treaties were not included in the domestic legislation as such. It assured the Committee that there was no conflict with the implementation of international provisions within the State.

Prevention

Peace education

The Committee asked about the existence of peace education in addition to human rights education. The delegation reported that although there was no programme teaching this topic as such, peace education was covered by programmes on other subjects, such as history or social education courses. The head of delegation added that there was a programme called 'Upholding International Peace and Security' at university which attracted many students. The delegation recalled that there was still no peace agreement with Armenia which was still occupying a part of the territory of Azerbaijan.

Ratification of other international instruments

The Committee asked whether the government had any intention to ratify the Rome Statute on the International Criminal Court. The delegation mentioned that Azerbaijan was present at the conference on the establishment of the International Criminal Court in 1998. It added that the Court had still not completed its formation stage and that the government which was still following the formation process of the Court, would ratify the Statute once this process will be completed.

The delegation recognised the importance of The Hague Convention on Children Abduction of the 25 October 1980 and indicated that its ratification could be considered through an internal process.

The delegation informed the Committee that, although Azerbaijan had not ratified the UNESCO Convention against Discrimination on Education, it had reported to UNESCO for the 6th Consultation on the Implementation of the Recommendations against Discrimination in Education.

Prohibition and Related Matters

Prohibition of the involvement of children in armed conflict

The Committee asked whether students in military and cadets schools and lyceums aged of seventeen could participate in armed conflict. The delegation assured the Committee that cadets, under the age of eighteen, could not be involved in any military operation and did not have the status of civil servants. The rapporteur asked whether the legislation had a clear definition of minors. The delegation indicated that under the age of eighteen, no one could be conscripted for military service. It added that people reaching the age of eighteen who did not have a deferral for military service could be called up for an eighteen month military service

for the subsequent period but that they could not be called up before. She also indicated that students with a university degree would be trained as officers. The head of delegation reaffirmed that children were not recruited before the age of eighteen by the State armed forces and that they would not be recruited even in case of total mobilization.

The delegation also explained that Azerbaijan had one of the strongest army in the region consisting of professionals, as it was one of the priorities of the government, and did not recruit any children within its armed forces.

Involvement of refugee children

The Committee asked whether refugee children and internally displaced children could also be called up for military service. The delegation answered that only citizens of Azerbaijan could be recruited for military service and that refugee children or adults could not be called up.

Recruitment of children by private security companies

The Committee also raised the issue of the recruitment of children by private security companies. The delegation indicated that this recruitment was also prohibited but that it had not been aware of any cases of children being recruited by private security companies.

Weapons exportations

The Committee also asked whether Azerbaijan was involved in the exportation of weapons to countries using child soldiers. The delegation indicated that, in accordance with a Presidential Edict from 2002, the exportation of weapons required a special permit of the ministry of interior. It added that Azerbaijan was not a country exporting weapons but would rather import some, even if its weapons industry was developing and that it participated in international exhibitions of weapons. It concluded that Azerbaijan was not at risk to sell weapons to countries using children in their armed conflict.

The delegation added that, while the State was not recruiting children in the State armed forces, many children were victims of armed conflict, since it was difficult to protect children being in bombing areas or to evacuate them. It reported that, in recent years, children had been more and more victims of armed conflict and of terrorist activities and were the direct targets of snipers. The head of delegation added that this last issue had been discussed at the international level but did not lead to tangible results. The delegation confirmed that the participation of refugee children in armed conflict used to be an issue in Azerbaijan as in many other countries.

Protection, Recovery and Reintegration

Complaint mechanism

The Committee asked whether children enrolled in military schools, who were trained to use firearms, had the opportunity to refer to an independent complaint mechanism. The delegation indicated that children could complain to the Ombudsman on specific matters and that every member of the Ombudsman office had the power to investigate these matters. It added that the Ombudsman had a full access to all military facilities and basis, even in the front line. It explained that this institution presented an annual report based on its activities to the Parliament.

Assistance to refugee children

The Committee asked whether refugee children located on the territory of Azerbaijan and who had been used as child soldiers in their own country could benefit from rehabilitation measures in Azerbaijan. The Committee specifically questioned the delegation about the existence of a child sensitive definition of refugee to identify former child soldiers. The delegation answered that no refugees could be recruited by the State armed forces, except if they had the Azeri citizenship. After clarification of the exact question by the Committee, the delegation indicated that there were currently no refugees, children or adults, in Azerbaijan. It added that Azerbaijan had been a country of transit five years ago for children from Afghanistan and Chechnya but that it was not the case anymore.

International Assistance and Cooperation

Extraterritorial Jurisdiction

Ms Sandberg recalled that the legislation of Azerbaijan on extraterritorial jurisdiction did not cover the crimes embodied in the OPAC. She therefore asked whether the State had any intention of including them in this part of the legislation. The delegation indicated that the reform of the criminal code was under consideration within a special working group and that it may present a new package of proposals that could include some more detailed provisions on this issue. It added that even though such a provision was missing, it was still possible for the judiciary to prosecute these criminal acts.

Concluding Remarks

Ms Sandberg thanked the delegation for the constructive dialogue and for its interest for both protocols. She observed that Azerbaijan did not have any monitoring body to protect children's rights and lacked awareness-raising and training of specialist's programmes. She indicated that the Committee was still concerned about the existence of military schools and the issue of refugee children. She notes that the delegation did not seem to be conscious that former child soldiers located on the territory of Azerbaijan should be identified and given assistance. She also noted the absence of answer to the question of the existence of a coordinating body for the implementation of the OPAC.

Ms Huseynova thanked the Committee for its questions and suggestions. She reiterated the firm commitment of the State to the norms and obligations included in both protocols. She recalled that the ratification of the Convention took place when the country was on the verge of collapse but that in spite of the situation, Azerbaijan had demonstrated its commitment to the protection of children's rights. She stated that the government was opened to continue dialogues and consultations on the issue of implementation of the three texts and that the recommendations would provide helpful advice to solve the challenges faced by the country. She reaffirmed the concern of the State that all rights of children be respected in Azerbaijan.