

COMMITTEE ON THE RIGHTS OF THE CHILD

Forty sixth session

**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**

Concluding Observations: SPAIN

1. The Committee considered the initial report of Spain (CRC/C/OPAC/ESP/1) at its 1276th meeting (see CRC/C/SR.1276), held on 1 October 2007 and adopted at the 1284th meeting, held on 5 October 2007, the following concluding observations.

A. Introduction

2. The Committee welcomes the submission of the State party's initial report, although regrets the delay in its submission. The Committee appreciates the constructive dialogue with a high-level and multisectoral delegation, which included a senior representative of the Ministry of Defense.
3. The Committee reminds the State party that these concluding observations should be read in conjunction with its previous concluding observations adopted on the State party's second periodic report on 4 June 2002, (CRC/C/15/Add.185) and the concluding observations adopted on the initial report under the Optional Protocol on the sale of children, child prostitution and child pornography (CRC/C/OPSC/ESP/CO/1) on 5 October 2007.

B. Positive aspects

4. The Committee notes with appreciation :
 - a. The declaration by the State party made upon the ratification of the Optional Protocol that the minimum age for voluntary recruitment into the armed forces is 18 years;
 - b. The State party's affirmation that international human rights treaties form part of domestic legislation and can be enforced by national courts;
 - c. The State party's contributions to projects for the rehabilitation and reintegration of child soldiers in several countries experiencing conflict or in post-conflict situations;
 - d. The State party's support for the mandate of the Special Representative of the Secretary General for Children and Armed Conflict and the Security Council resolution 1539;
 - e. The State party's efforts to promote the Guidelines on children and armed conflict adopted by the European Union's General Affairs and External Relations Council in December 2003, and updated in 2005.
5. The Committee further commends the State party's accession to or ratification of international instruments related to the Optional Protocol, including:
 - a. The Rome Statute of the International Criminal Court on 24 October 2000;
 - b. The ILO Convention No. 182 concerning the Prohibition and Immediate Action for the Elimination of the Worst Forms of Child Labour on the 2 April 2001;
 - c. The Optional Protocol on the sale of children, child prostitution and child pornography on the 5 December 2001.

C. Main areas of concern and recommendations

C.1. General measures of implementation

Legislation and implementation measures

6. The Committee commends the State party's support for raising the minimum age limit for voluntary recruitment to 18 years. The Committee notes that crimes under the Optional Protocol are indirectly covered by references to international treaties in the State party's Criminal Code, however is concerned that there are

no specific provisions criminalising the compulsory recruitment of a person under 18 years.

7. In order to strengthen the national and international measures for the prevention of the recruitment of children for armed forces or armed groups and their use in hostilities, the Committee recommends that the State Party:

a) Ensure that violations of the provisions of the Optional Protocol regarding the recruitment and involvement of children in hostilities be explicitly criminalized in the State party's legislation;

b) Strengthen extraterritorial jurisdiction for these crimes when they are committed by or against a person who is a citizen of or has other links with the State Party;

c) Ensure that military codes, manuals and other military directives are in accordance with the provisions and the spirit of the Optional Protocol.

Dissemination and training

8. The Committee notes with appreciation that all military personnel, including the participants of peacekeeping missions, receive training on human rights, including the provisions of the Convention on the Rights of the Child and the Optional Protocols. The Committee is however concerned that not all groups of professionals working with children get enough training. Furthermore, the Committee welcomes that peace education is an element of human rights education in school, but is concerned that the awareness of the Optional Protocol is low among children, parents and teachers.

9. **The Committee encourages the State Party to continue providing training activities on the Optional Protocol to members of its armed forces, including peace keepers, and to all relevant professionals groups working with and for children, who have been victims of acts contrary to the Optional Protocol, or professionals who may come with contact with them, such as health personnel, social workers, teachers, lawyers, judges, media professionals, and in particular, authorities working for and with asylum-seeking, refugee and migrant children.**

10. **Furthermore, the Committee recommends that the State party make the Optional Protocol widely known to the public at large and in particular to children and their parents through, *inter alia*, school curricula and human rights education.**

C. 2. Measures adopted with regard to disarmament, demobilisation and social reintegration

Measures of social reintegration

11. The Committee notes the efforts of the State party in the processing of asylum requests from children. However, the Committee is concerned that identification of children who may have been recruited or used in hostilities prior to arrival in Spain is inadequate and that data on these children are not systematically collected. The Committee is concerned that failure to identify such children could result in a breach of the principle of non-refoulement.
12. Furthermore, the Committee regrets that asylum seeking children who have been recruited or used in armed conflict are poorly informed about the asylum process and have scarce access to specialised professionals who can provide multidisciplinary assistance for their physical and psychological recovery and their social reintegration. The Committee is concerned that the heavy workload on the office of the ombudsman may have a negative impact on the best interests of the child.
13. **The Committee recommends that the State party;**
 - a.) **Take measures to identify and systematically collect data on refugee, asylum-seeking and migrant children within its jurisdiction who may have been recruited or used in armed conflict;**
 - b.) **Pay particular attention to refugee and asylum-seeking children in Spain who may have been involved in hostilities and increase the number of professionals in order to provide children with adequate multidisciplinary assistance for their physical and psychological recovery and their social reintegration;**
 - c.) **Improve the access to information, including help lines, for asylum seeking children and reinforce the legal advisory services available for them, including within the office of the ombudsman;**
 - d.) **Safeguard full implementation of the Optional Protocol in all autonomous regions;**
 - e.) **Ensure that the best interests of the child and the principle of non-refoulement are primary considerations taken into account in the case of a decision to repatriate a child.**
14. **In this regard, the Committee recommends that the State party take note of the Committee's General Comment No. 6 (CRC/GC/2005/6), in particular paras. 54-60, on treatment of unaccompanied and separated children outside their country of origin.**

C.3. International assistance and cooperation

Arms Export

15. The Committee welcomes the State party's support for the EU Code of Conduct on Arms Exports (1998) and that the State party has criminalised illegal arms trade. However, the Committee notes that the State party's legislation contains no specific mention, as a criterion for excluding their sale, the possible recruitment or use in hostilities of children in the country of final destination of the arms.
16. **The Committee recommends that the State party consider introducing a specific prohibition with respect to the sale of arms when the final destination is a country where children are known to be - or may potentially be - recruited or used in hostilities.**

International cooperation

17. The Committee commends the State party for its financial support to multi- and bilateral activities aimed at protecting and supporting children who have been affected by armed conflict.
18. **The Committee recommends that the State party continue and strengthen its financial support for multi- and bilateral activities to address the rights of children involved in armed conflict, in particular by promotion of preventive measures, as well as, of physical and psychological recovery and social reintegration of child victims of acts contrary to the Optional Protocol.**

C.4. Follow-up and dissemination

19. **The Committee recommends that the State party continue to develop ongoing and systematic education and training in all official languages on the provisions of the Optional Protocol for all relevant professional groups as mentioned above. Furthermore, it recommends that the State party make the Optional Protocol widely known to the public at large and in particular to children and their parents through, *inter alia*, school curricula and human rights education.**
20. **Additionally, in light of article 6, paragraph 2, of the Optional Protocol, the Committee recommends that the initial report submitted by the State Party and concluding observations adopted by the Committee be made widely available to the public at large in order to generate debate and awareness of the Optional Protocol, its implementation and monitoring.**

C.5. Next report

21. **In accordance with article 8, paragraph 2, the Committee requests the State party to include further information on the implementation of the Optional Protocol in its next periodic report under the Convention on the Rights of the Child, in accordance with article 44 of the Convention.**
