



**STATE PARTY EXAMINATION OF UKRAINE
INITIAL REPORT ON THE OPTIONAL PROTOCOL ON THE
INVOLVEMENT
OF CHILDREN IN ARMED CONFLICT**

**56TH SESSION OF THE COMMITTEE ON THE RIGHTS OF THE CHILD
17 JANUARY – 04 FEBRUARY 2011**

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Ukraine ratified the Optional Protocol on the Involvement of Children in Armed Conflict (OPAC) on 11 July 2005. On 28 January 2011, the Committee on the Rights of the Child (the Committee) examined the initial report of Ukraine. The State party has one declaration on Article 3 paragraph 2.

Opening Comments

The delegation of Ukraine was led by Mr. Ravil Safiullin, Minister of the State Service of Youth and Sport. He was supported by a large, high level delegation consisting of representatives of the Ministry of Justice, the Department of Maternity, Childhood and Health Resorts of the Ministry of Health, Juvenile Criminal Militia Department of the Ministry of Internal Affairs, the State Department of adoption and protection of the rights of the child, the Department of social protection of the Ministry of Labour and Social Policy, the Legal Department of the Ministry of Defence and the Permanent Mission in Geneva.

Mr. Ravil Safiullin stated that the involvement of children in armed conflicts under the age of 18 was prohibited in Ukraine. However, children under 18 could enrol in military academies with parental consent. The involvement of children in armed conflict was regulated by the Child Protection Act, which prohibited the recruitment and involvement of children to and in armed forces, armed conflict, and paramilitary organisations. The Head of Delegation stated that the OPAC had been largely disseminated in Ukraine.

Ms. Hadeel Al Asmar, Country Rapporteur, thanked the delegation of Ukraine for the comprehensive report supplied and for the State's commitment to implement the OPAC. She noted the positive achievements that the State Party had already made, such as the declaration that 19 years was the minimum age of military recruitment (Declaration to the article 3(2))

OPAC), the commitments made in 2007 to protect children from unlawful recruitment and to establish guidelines for children associated with arm conflict. She also noted the State's commitment to the Paris Principles and the ratification of the Protocol against the Illicit Manufacturing of and Trafficking in Firearms, Their Parts and Components and Ammunition in May 2004. Nevertheless, Ms. Al Asmar expected an explanation for a number of outstanding challenges, in order to ensure better understanding and accomplish a fruitful dialogue.

Ms. Al Asmar was surprised to note that the Written Replies to the List of Issues had not answered whether OPAC was directly applicable in the State Party and was therefore directly applied by the Courts. She asked for more information regarding dissemination and awareness-raising, as well as on training in military schools, peace education and criminal legislation. Ms. Al Asmar observed a lack of systematic data collection on aspects related to children involved in armed conflict and asked whether official statistics could be provided on the number of asylum-seeking and refugee children. Furthermore, she inquired as to whether there was a mechanism to identify unaccompanied asylum-seeking children who had been involved in armed conflict, and whether special courses and translation were provided to these children. The Country Rapporteur also queried whether physical and psychological recovery and assistance were provided to victims. She noted that assistance was provided to Iraqi children involved in armed conflict in Iraq in 2004, but wondered whether this represented a systematic commitment by the Ukrainian military to be involved in such work and asked for clarification on the assistance given to children victims of armed conflicts.

General Measures of Implementation

Legislation

The Committee asked about the status of the OPAC in the internal legislation and whether it was directly applicable in the Courts. The delegation clarified that according to article 9 of the Ukrainian Constitution, the international treaties were equal or superior to the national legislation. The State Party had signed the OPAC in 2000 and as of 23 June 2004, it was part of the Ukrainian national legislation.

Concerning criminal legislation and its regulation, the Committee asked whether recruitment and the use in armed conflict of persons under the age of 18 was explicitly prohibited and punished in the national legislation. The delegation assured that according to Ukrainian legislation the recruitment and the use of persons under the age of 18 in armed conflict was prohibited, as was their mobilisation in case of emergency. The delegation also explained that the students in the special military schools were not considered as military cadets, because their education was similar to secondary school. The higher military education had strict requirements that secondary school must be completed and that the person had to turn 17 in the year that they applied to enrol in training.

Dissemination and training

The Committee welcomed more information about the dissemination and awareness-raising by the State Party on the OPAC. The Committee noted that personnel participating in international peace-keeping operations received mandatory training on children in armed conflict, and wondered whether the OPAC was incorporated in the training for various members of official border services, State employees and the staff at centres of family support and social and psychological rehabilitation. The delegation said that the curriculum contained international instruments on humanitarian law and specialised courses concerning the CRC and the OPAC, followed by an exam.

The Committee also asked about the peace education. According to the Written Replies, fostering respect for human rights was an objective of the higher military institutions; however, the Committee was concerned that there were no programmes or systematic peace education integrated in the school curriculum, specifically in the curricula of military secondary education. The delegation explained that the servicemen were deployed in 13 countries as military and peacekeeping personnel and that the contingents had special legal advisers, who helped them comply with the legal provisions of the CRC and the OPAC. The delegation reiterated that servicemen participated in peace education courses and activities.

Information related to Non-State Actors

Recruitment of children

The Committee asked about legislation in the State Party that addressed prevention of the recruitment of children by non-state actors and the definition of ‘direct hostilities’. The delegation explained that the Ukrainian legislation had special provisions for mercenaries, who could be sentenced to up to ten years in case of recruitment of minors. However, the delegation assumed that there were no such cases in Ukraine, as no conflict was taking place on its territory.

Prevention

Identification of children

The Committee reiterated the question regarding the existence of a clear mechanism to identify whether unaccompanied refugee or asylum-seeking children had been recruited or used in armed conflict.

Military schools

The Committee was aware that military schools in Ukraine were used as a type of protection, for children from vulnerable groups. The Committee was concerned that there was at least one secondary school that offered two years of intensive military preparation for children from the age of 15 years old, particularly orphans and children of military personnel. The Committee requested clear data on the number of children in these military schools. It further asked whether the Ministry of Defence or the Ministry of Education monitored this school.

The delegation explained that the military schools were structures where children could obtain general education and military training. Currently, there were 19 military schools: two military lyceum and 17 lyceum with enhanced military and physical training. The delegation clarified that these lyceum were directed by the Ministry of Defence in Kyiv and Sebastopol. The study programme was mainly on general education, and only one tenth of it was on military education. The delegation assured that no combat training was exercised and there were no privileges of access to higher military school for children that had attended the military lyceum; they had to apply for the professional selection just like any other prospective student.

The Committee asked whether the military schools were considered military zones. The delegation admitted that two of them were designated military zones, although no military. The delegation mentioned that even if the number of schools seemed high to the Committee, this was demanded by the Ukrainian society and it also appealed to children who would otherwise be on the street and therefore would not receive an education.

The delegation further explained that if the student had completed two years, this education used to be considered part of their military service, but as of 1999, this practice did not exist anymore. The delegation mentioned that a disciplined approach was required in this

educational setting, but that the children responded well to it. The overall percentage of children completing the full curriculum over five years and graduating from this lyceum were about 12 to 14 per cent of the originally enrolled class, depending on the year.

The delegation said that their students could pursue higher education in subjects other than military academia, for instance they could study engineering for the service of aircrafts. Historically, these schools targeted the children of military officers who wanted to follow their parents' professional career. This education was popular among children and existed in the *Oblast* centres.

Protection, Recovery and Reintegration

Reintegration

The Committee asked whether Ukraine had a mechanism to reintegrate children who participated in hostilities back into society.

International Assistance and Cooperation

Prohibition of trade of small arms

Regarding the regulation of small arms export, the Committee asked whether specific legislation existed to prohibit the export of arms to countries where children were or might be recruited into the armed forces. The Committee wondered whether there was active cooperation regarding the implementation of the Ukrainian position on small arms export.

The delegation answered that the companies working in the area of arms export, had to receive permission for this export from the Cabinet of Ministers and the State Commission for Arms Exports Control, which strictly controlled all arms sales and monitored them to ensure that they were conducted in line with the provisions of the CRC and the OPAC. The delegation added that the Ministry of Defence was funding these activities.

Extraterritorial jurisdiction

It further asked, regarding the notion of extraterritoriality, whether a Ukrainian citizen could be prosecuted for violating the provisions of the OPAC if the crimes were committed outside of the Ukrainian territory. It also asked about the situation of non-citizens in this regard.

Concluding Remarks

Mr. Ravil Safiullin, the Head of Delegation, thanked the Committee for the constructive dialogue and for the attention to the Ukrainian children. He said that the delegation would take into account the Committee's concluding observations and thanked to the Committee for their work to improve the position of the children.

Ms. Hadeel Al Asmar, the Country Rapporteur, said that Ukraine gave a lot to its children, but nevertheless more needed to be done to improve training, data collection, rehabilitation and recovery, so that the children of Ukraine could flourish.