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Convention on the Rights of the Child

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Committee on the Rights of the Child
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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: Bosnia and Herzegovina

1. The Committee considered the initial report of Bosnia and Herzegovina (CRC/C/OPAC/BIH/1) at its 1552nd meeting (CRC/C/SR.1552), held on 16 September 2010, and adopted at its 1583rd meeting held on 1 October 2010, the following concluding observations.

Introduction

2. The Committee welcomes the submission of the State party's initial report under the Optional Protocol and the written replies to its list of issues (CRC/C/OPAC/BIH/Q/Add.1). The Committee highly appreciates the frank and constructive dialogue held with the State party's multisectoral delegation.

3. The Committee reminds the State party that these concluding observations should be read in conjunction with its concluding observations adopted on the State party's initial report under the Convention on the Rights of the Child (CRC/C/15/Add.260) and on the initial report under the Optional Protocol on the Sale of Children, Child Prostitution and Child Pornography (CRC/C/OPSC/BIH/CO/1).

I. Positive aspects

4. The Committee notes with appreciation:

(a) The declaration made at the time of ratification that the State party will not permit the voluntary recruitment of persons under the age of 18 into its armed forces;

(b) The adoption of the Law on Defence of Bosnia and Herzegovina in January 2006, which abolished conscription and set the minimum age of recruitment for military service at 18 years;

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(c) The adoption of the Law on Parliamentary Military Commissioners of Bosnia and Herzegovina in 2009;

(d) The development of a State Strategy for Transitional Justice aimed at improving the situation and protection of all war victims, including children;

(e) The adoption of the Mine Action Strategy in 2004 and the State party's pledge to clear all landmines by 2019;

(f) The establishment of the Coordinating Committee for the Control of Small and Light Arms of Bosnia and Herzegovina in 2005 and the adoption of the Strategy and Action Plan for control of small arms and light weapons (2008-2012), aiming at strengthening the capacity for regulatory control and destruction of surplus ammunition.

5. In addition, the Committee welcomes the ratification or accession by the State party to:

(a) The Optional Protocol to the Convention against Torture on 24 October 2008;

(b) The Protocol against the Illicit Manufacturing of and Trafficking in Firearms, Their Parts and Components and Ammunition, supplementing the United Nations Convention against Transnational Organized Crime on 1 April 2008;

(c) The Rome Statute of the International Criminal Court on 11 April 2002.

II. General measures of implementation

Dissemination and awareness-raising

6. While noting the inclusion of the Optional Protocol in various educational programmes, the Committee regrets that the State party has not taken specific measures to promote and disseminate the Optional Protocol to the public at large and to children in particular, as well as among the relevant State agencies.

7. **In light of article 6, paragraph 2 of the Optional Protocol, the Committee recommends that the State party ensure that the principles and provisions of the Optional Protocol are widely disseminated to the general public and among children, and to State officials.**

Training

8. The Committee welcomes information that the Optional Protocol is included in the training for new members of the armed forces of Bosnia and Herzegovina and that members of international peacekeeping forces receive training on child protection. It regrets, however, that appropriate human rights training, especially on the provisions of the Optional Protocol, is not systematically offered to all relevant professional groups, in particular military officials involved in recruitment, judges, prosecutors, immigration officials, the Parliamentary Military Commissioners, and social workers.

9. **The Committee recommends that the State party:**

(a) Continue and strengthen education and training programmes on the Optional Protocol for members of the armed forces, including those deployed to international peacekeeping forces;

(b) Develop systematic education and training programmes on the provisions of the Optional Protocol for all relevant professional groups working with and for children and in particular among military officials involved in recruitment,

judges, prosecutors, immigration officials, the Parliamentary Military Commissioners and social workers.

Independent monitoring

10. The Committee notes the appointment of Parliamentary Military Commissioners, as stated by the State party during the dialogue, who are under an obligation to inform the Ombudsman for Human Rights of Bosnia and Herzegovina of irregularities regarding recruitment in the armed forces and the power of the Ombudsman to act ex officio in such instances. However, the Committee is concerned at the lack of clarity of the mandate of the Parliamentary Military Commissioners with respect to the implementation of the Optional Protocol. The Committee is furthermore concerned at the delay in completing the merger of the Entity level Ombudsmen institutions into a single Ombudsman for Human Rights of Bosnia and Herzegovina to ensure effective and independent monitoring of the implementation of the Convention and its Optional Protocols in the State party.

11. **The Committee recommends that the Parliamentary Military Commissioners be specifically mandated to ensure compliance with the Optional Protocol by the armed forces of Bosnia and Herzegovina, in close cooperation with the Ombudsman for Human Rights of Bosnia and Herzegovina. The Committee furthermore recommends that the State party intensify efforts to consolidate the Ombudsman for Human Rights of Bosnia and Herzegovina and ensure a unitary approach to protecting and promoting human rights, and the Convention and its Optional Protocols in particular.**

III. Prevention

Peace education

12. **While noting that human rights education is included in the curricula of primary and secondary schools, the Committee is concerned that there are no programmes to systematically include peace education in the school curricula. With reference to its general comment No. 1 (2001) on the aims of education, the Committee recommends that the State party undertake efforts to include peace education in the school curricula, with special reference to crimes covered by the Optional Protocol.**

IV. Prohibition and related matters

Criminal legislation and regulations in force

13. While noting the prohibition of organizing, training, equipping or mobilizing armed groups (other than the armed forces) under article 162.a of the Criminal Code of Bosnia and Herzegovina and that the Law on Service in Armed Forces of Bosnia and Herzegovina indirectly prohibits the recruitment of children, the Committee is concerned that the recruitment and use in armed conflict of persons under the age of 18 is not explicitly prohibited nor criminalized in State and Entity level legislation.

14. **The Committee recommends that the State party adopt all legal measures necessary to ensure, at both State and Entity level, that the violation of the provisions of the Optional Protocol regarding the recruitment and involvement of children in hostilities are explicitly criminalized in the State party's criminal legislation.**

Jurisdiction

15. The Committee notes the provision of the Criminal Code of Bosnia and Herzegovina providing for extraterritorial jurisdiction over "a criminal offence that Bosnia and Herzegovina is obliged to punish according to the rules of international law, international or intergovernmental agreements". The Committee regrets, however, that the Criminal Code does not specifically allow extraterritorial jurisdiction for all the cases referred to in article 4, paragraph 2 of the Optional Protocol.

16. **The Committee recommends that the State party take steps to ensure that domestic legislation enables it to establish and exercise extraterritorial jurisdiction over war crimes of conscription and enlistment of children in hostilities, taking into account the Rome Statute of the International Criminal Court to which it is a party, and further recommends establishing 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.**

V. Protection, recovery and reintegration

Measures adopted to protect the rights of child victims

17 While noting the draft law on the rights of victims of torture and civil victims of war, the Committee is concerned that civilian victims, including children, may be discriminated in relation to personal disability benefits compared to disabled war veterans under the State party's current legislation on the regulation of social benefits.

18. **The Committee recommends that the State party adopt the Law on the Rights of Victims of Torture and Civil Victims of War without delay and that it ensures that child victims of armed conflict or its consequences are not discriminated against, including in the distribution of personal disability benefits in order to ensure their full physical and psychological recovery and their social reintegration.**

Assistance for physical and psychological recovery

19. The Committee welcomes ongoing mine-awareness campaigns and demining activities, including those undertaken by the armed forces of Bosnia and Herzegovina, as well as the modernization of a database on victims of landmines. Nevertheless, it remains concerned that children continue to be affected by landmines and that children affected by the explosion of mines and other consequences of the armed conflict do not receive adequate assistance for their physical and psychological recovery. In this regard, the Committee is concerned at the lack of human, technical and financial resources of centres for social work and at the social stigmatization against institutions engaged in psychosocial rehabilitation of victims of war. While welcoming ongoing efforts to identify resources with a view to identify children in need of post-war physical and psychological recovery and rehabilitation, the Committee is concerned that the State party has not yet established such a mechanism.

20. **The Committee recommends that the State party:**

(a) Continue and strengthen mine-awareness campaigns and demining activities, in particular by strengthening funding for demining activities undertaken by the armed forces of Bosnia and Herzegovina;

(b) Consider establishing special rehabilitation programmes for children affected by the explosion of mines and other consequences of the armed conflict and ensure that all affected children have access to such programmes, including through

increased allocation of resources to centres for social work and by increasing the coverage of the system of personal disability benefits;

(c) Establish procedures for the adequate identification and referral for appropriate assistance of all children who have been involved in armed conflict, in accordance with article 6, paragraph 3 of the Optional Protocol.

VI. International assistance and cooperation

International cooperation

21. The Committee welcomes the State Strategy for Transitional Justice, supported by the United Nations Development Programme (UNDP), to ensure compensation of damages caused by war and the right to certain social benefits of victims of war. While noting the multisectoral approach to its implementation, the Committee remains concerned that specific activities to be carried out by State and Entities under the Strategy have not yet been identified. While noting ongoing cooperation, inter alia, with the International Commission on Missing Persons (ICMP) aimed at the identification of persons, including children who disappeared during the conflict, the Committee is furthermore concerned about the obstacles which remain to identifying and establishing the truth about the fate of missing persons and to ensuring access to compensation for their families.

22. **The Committee strongly recommends, in line with the preliminary recommendations of the Working Group on Enforced or Involuntary Disappearances, that the State party:**

(a) Take all necessary measures to implement the Strategy for Transitional Justice, especially by finalizing an action plan with clearly identified activities and corresponding responsibilities among State and Entity ministries and institutions, and by allocating adequate financial resources;

(b) Strengthen efforts for the investigation, prosecution, uncovering of sites, witness protection, and judicial mechanisms and complete and publicize the Central Record of the Missing Persons, in order to reduce politicization obstructing the identification and establishing the truth about the fate of missing persons;

(c) Ensure that the families of children who were subjected to enforced or involuntary disappearance have access to redress and compensation, especially by establishing the Fund for Families of Missing Persons foreseen in the Law on Missing Persons;

(d) Ratify the International Convention for the Protection of All Persons from Enforced Disappearances, which it has already signed.

Arms export

23. The Committee welcomes the launching of an awareness-raising campaign on the dangers of small arms and light weapons in cooperation with UNICEF and UNDP, as well as operations by the Ministry of Defence aimed at the destruction of weapons. The Committee, however, remains concerned at the significant number of small arms and light weapons in the possession of civilians and armed forces, which continue to pose threat to the safety of children. It is furthermore concerned at the lack of legislation specifically prohibiting the trade and export of small arms and light weapons to countries where children are or may have been involved in armed conflict.

24. **The Committee recommends that the State party:**

(a) Continue and strengthen cooperation with relevant international and regional organizations as regards the control of and eradication of surplus small arms and light weapons, including those in the possession of the civilian population;

(b) Intensify campaigns undertaken by law enforcement agencies at State and Entity levels to ensure that all small arms and light weapons are collected from civilians;

(c) Ensure the explicit prohibition of trade and export of small arms and light weapons to countries where children are known to have been or are involved in armed conflict;

(d) Ensure that illicit activities, including the manufacturing and trafficking of small arms and light weapons, are criminalized, that records are maintained and firearms marked, taking into account the Protocol against the Illicit Manufacturing of and Trafficking in Firearms, Their Parts and Components and Ammunition, supplementing the United Nations Convention against Transnational Organized Crime.

VII. Follow-up and dissemination

Follow-up

25. **The Committee recommends that the State party take all appropriate measures to ensure the full implementation of the present recommendations, inter alia, by transmitting them to the Head of State, the Constitutional Court of Bosnia and Herzegovina, the Supreme Court of the two Entities, the Parliamentary Assembly (both the House of Peoples and the House of Representatives), relevant ministries and to State, Entity, cantonal and local authorities, when applicable, for appropriate consideration and further action.**

Dissemination

26. **The Committee recommends that the initial report and written replies submitted by the State party and related recommendations (concluding observations) adopted be made widely available, including through the internet (but not exclusively), to the public at large, civil society organizations, youth groups, professional groups and children, in order to generate debate and awareness of the Optional Protocol, its implementation and monitoring.**

VIII. Next report

27. **In accordance with article 8, paragraph 2, the Committee requests the State party to include further information on the implementation of the Optional Protocol and these concluding observations in the next periodic report under the Convention, in accordance with article 44 of the Convention.**