



Convention on the Rights of the Child

Committee on the Rights of the Child

Fifty-second session

14 September – 2 October 2009

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: Turkey

1. The Committee considered the initial report of Turkey (CRC/C/OPAC/TUR/1) at its 1427th meeting, held on 14 September 2009 (see CRC/C/SR.1427), and adopted at its 1453rd meeting, held on 2 October 2009, the following concluding observations.

Introduction

2. The Committee welcomes the submission of the State party's initial report. The Committee also welcomes the written replies of the State party to the list of issues (CRC/C/OPAC/TUR/Q/1 and Add.1) and appreciates the dialogue with a multi-sectoral delegation, which included a representative of the Ministry of Defence.

3. The Committee reminds the State party that the present concluding observations should be read in conjunction with its previous concluding observations adopted on the initial report of the State party on 8 June 2001 (CRC/C/15/Add.152) and with the concluding observation adopted on the initial report under the Optional Protocol on the sale of children, child prostitution and child pornography (CRC/C/OPSC/TUR/CO/1) on 2 June 2006.

I. Positive aspects

4. The Committee notes as positive the declaration made by the State party upon ratification of the Protocol that even in cases of mobilization and state of emergency, individuals who are liable to military service may only be recruited at the age of 19.

II. General measures of implementation

Reservation

5. The Committee regrets the restrictive nature of the State party's reservation to the Convention, reiterated and referred to in the declaration made upon ratification of the Optional Protocol, and that no progress has been made in withdrawing, or limiting, its extent since the consideration of the initial periodic report of the State party in 2001.

6. The Committee reiterates its previous recommendation that the State party review its reservation with a view to withdrawing it, in accordance with the Vienna Declaration and Plan of Action adopted by the World Conference on Human Rights on 25 June 1993 (A/CONF.157/23).

Dissemination and awareness

7. The Committee is concerned that awareness of the Optional Protocol among the general public is low.

8. The Committee recommends, in the light of article 6, paragraph 2, of the Optional Protocol, that the State party ensure that the principles and provisions of the Optional Protocol are widely disseminated to the general public and among children. The Committee recommends that the State party pay particular attention to counteracting negative media portrayals of children who may have been used in hostilities.

Training

9. The Committee notes information that members of the armed forces and the police receive training on human rights standards, including the rights of the child, however, it is concerned that training on the provisions of the Optional Protocol may be inadequate. Furthermore, the Committee is concerned that relevant professional categories, in particular those working with the administration of justice, do not receive training on the provisions of the Optional Protocol.

10. The Committee recommends that the State party strengthen human rights training for members of the armed forces

with specific training on the provisions of the Protocol. Furthermore, the Committee also recommends that the State party develop awareness-raising, education and training programmes on the provisions of the Protocol for relevant professional groups working with children, notably prosecutors, lawyers, judges, law enforcement officers, social workers, medical professionals, teachers, media professionals, local and district officials. The State party is invited to provide information in that respect in its next report.

Data

11. The Committee takes note of the statistics provided in the written replies to the list of issues. However, the Committee regrets that information is lacking on the number of children who have been recruited or used in hostilities by non State armed groups.

12. The Committee recommends that, in order to identify root causes and take preventive measures, the State party establish a central data collection system for the identification and registration of all children present within its jurisdiction who may have been recruited or used in hostilities. Furthermore, the Committee recommends that the State party ensure that data is available regarding refugee and asylum-seeking children who may have been victims of such practices.

III. Prevention

Peace education

13. The Committee notes that human rights education and peace education is insufficient in the school curricula.

14. The Committee recommends that the State party strengthen human rights education and, in particular, provide peace education for all children in school and train teachers with respect to including these themes in children's education.

IV. Prohibition and related matters

Legislation

15. The Committee, while noting provisions in the Military Act No. 1111 which exclude the recruitment of persons under 18 years of age, is concerned that the Penal Code fails to specifically include the crimes covered in the Optional Protocol. Furthermore, the Committee regrets that legislation regarding extra-territorial jurisdiction does not include the provisions of the Protocol.

16. In order to further strengthen international measures for the prevention of the recruitment of children and their use in hostilities, the Committee urges the State party to:

(a) Revise the Penal Code and include a provision which explicitly criminalizes violations of the provisions of the Optional Protocol regarding the recruitment and involvement of children in hostilities and a definition of direct participation in hostilities;

(b) Consider 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 ;

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

(d) Formally abrogate the National Defence Service Law 3634, according to which children above 15 may be mobilized in states of emergency.

17. Furthermore, the Committee recommends that the State party consider ratifying the following international instruments, already widely supported by the international community:

(a) The Protocol Additional to the Geneva Conventions of 12 August 1949, relating to the protection of victims of International Armed Conflicts (Protocol I);

(b) The Protocol Additional to the Geneva Conventions of 12 August 1949, relating to the protection of victims of Non-International Armed Conflicts (Protocol II);

(c) The Rome Statute of the International Criminal Court.

V. Protection, recovery and reintegration

Prosecution of children on terrorist charges

18. The Committee is seriously concerned that amendments to the Anti-Terrorist Act (ATA) in 2006 allow for the prosecution of children above 15 years of age as adults in "Special Heavy Penal Courts". The Committee, while noting the information received from the State party, is nevertheless concerned over reports that such legislation is being applied to large numbers of children. The Committee is particularly concerned that sanctions for children may include life imprisonment, contrary to the Convention on the Rights of the Child, and over reports indicating the application of the ATA on grounds such as the presence or participation in demonstrations and public gatherings.

19. The Committee recommends that the State party:

- (a) Amend the Anti-Terrorist Act in order to ensure that children are not tried as adults in “Special Heavy Penal Courts”. Children should be guaranteed the protection of juvenile justice standards in ordinary courts and any trials should be conducted in a prompt and impartial manner, in accordance with minimum fair trial standards;
- (b) Ensure that any definition of terrorist crimes be brought in line with international standards and norms, as recommended by the Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism in his report on his mission to Turkey in 2006 (A/HRC/4/26/Add. 2, para. 90);
- (c) Ensure that children are only detained as a measure of last resort and for the shortest possible time period. If in doubt regarding the age, young persons should be presumed to be children;
- (d) Guarantee that children, if accused of having committed terrorist crimes, are detained in adequate conditions in accordance with their age and vulnerability;
- (e) Inform parents or close relatives where the child is detained and allow contact;
- (f) Provide adequate free and independent legal advisory assistance for all children;
- (g) Guarantee children a periodic and impartial review of their detention;
- (h) Ensure that children in detention have access to an independent complaints mechanism and that reports of cruel, inhuman and degrading treatment of detained children are investigated in an impartial manner;
- (i) Afford educational programmes and recreational activities, as well as, measures for all detained children’s social reintegration;
- (j) Provide all professionals working in the juvenile justice system with training on the Convention on the Rights of the Child , its Optional Protocols , other relevant international standards and the Committee’s general comment No . 10 (2007) on the administration of juvenile justice.

Assistance for physical and psychological recovery

20. The Committee regrets that the measures to identify refugee and asylum-seeking children, who may have been recruited or used in hostilities, are insufficient and that reintegration and recovery measures for such children are inadequate.

21. The Committee encourages the State party to reinforce its identification mechanisms for refugee and asylum-seeking children who may have been recruited or used in hostilities, and to strengthen measures for their recovery and social reintegration. Such measures should include careful assessment of the situation of these children, reinforcement of the legal advisory services available for them and the provision of immediate, culturally responsive, child sensitive and multidisciplinary assistance for their physical and psychological recovery and their social reintegration in accordance with the Optional Protocol. The State party should furthermore ensure the availability of specially trained staff within the border authorities and that the best interests of the child and the principle of non-refoulement are primary considerations taken into account in the decision - making process regarding repatriation of such children.

VI. International assistance and cooperation

International cooperation

22. The Committee, while noting with appreciation the active contribution of the State party to United Nations Peacekeeping Operations, invites the State party to continue to ensure that its personnel are fully aware of the rights of children involved in armed conflicts; and that military contingents are aware of their responsibility and accountability.

23. The Committee recommends that the State party consider seeking cooperation with the Special Representative of the Secretary - General for Children and Armed Conflict in the event that children are found to have been recruited or used by armed groups.

VII. Follow up and dissemination

24. The Committee recommends that the State party take all appropriate measures to ensure full implementation of the present recommendations, inter alia , by transmitting them to the Ministry of Defence , the Grand National Assembly and the Council of Ministers for appropriate consideration and further action.

25. 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 and to children in particular in order to generate debate and awareness of the Protocol, its implementation and monitoring.

VIII. Next report

26. 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.