



ngo group for the crc

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

46TH SESSION OF THE COMMITTEE ON THE RIGHTS OF THE
CHILD

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The Republic of Croatia ratified the OPAC on 21st of March 2002. On the 18th of September 2007, the Committee on the Rights of the Child (the Committee) examined Croatia's Initial Report on the implementation of the OPAC.

Opening Comments

Mr. Branko Sočanac, Chargé d' Affaires of the Permanent Mission of the Republic of Croatia to the United Nations in Geneva, introduced the State party report. He highlighted the fact that before ratifying the OPAC Croatia had harmonised national legislation with international standards by establishing 18 as the minimum age for recruitment. He also stressed that there were no provisions for lowering that age limit and that recruits were required to present formal identification which included details of their age when they were called up to begin military service. He mentioned that the efforts to professionalise the army included legal amendments allowing the state not to call up conscripts, so that in practise only volunteers would receive military training. He pointed out that Croatia did not deploy conscripts during peacekeeping missions. He emphasised the commitment of the state to the elimination of the use of children in armed conflict and mentioned the ratification of other relevant international treaties and the use of the Committee's concluding observations in drafting the National Plan on children.

Mr Parfitt, the Country Rapporteur, commended the State party on the efforts made to conform to the OPAC. He noted that all the international treaties ratified by the State, including the CRC and its Optional Protocols, were part of the legislation and had priority over domestic laws. He highlighted the inclusion of penalties in the Penal Code for the recruitment of children, pointing out that few states had such explicit criminalisation. He praised the establishment of an Ombudsman for children

in accordance with the Paris Principles, as recommended in the Committee's previous concluding observations to Croatia. He proceeded to ask about the jurisdiction of the Ombudsman over armed forces and the police as well as the extent of the resources supplied to the Ombudsman. He also wanted more information on the services for the rehabilitation and recovery of children affected by war, particularly asylum seekers. He asked about the training the armed forces received on children's rights. Finally, he enquired about the provisions prohibiting the export of arms to countries where children were recruited and the measures taken to disseminate the OPAC.

Legislation (including Universal Jurisdiction)

The Committee asked for clarification on the status and precedence of international treaties in the legislation. The delegation explained that the constitution allowed international treaties to be invoked directly in the courts. International treaties had priority over domestic laws. However, it admitted that so far the OPAC had not been used in this way. The Committee asked whether judges received training on how to apply international law. The delegation replied that international law was included in the curriculum of the justice academy and added that juvenile judges and police officers involved in juvenile cases received special training on the rights and vulnerabilities of children. In response to comments from the Committee, the delegation acknowledged the need to incorporate international standards into domestic legislation and pointed out that this had been done for the OPAC by including penalties for the recruitment of children in the Criminal Code.

The Committee asked whether the State party had universal jurisdiction over war crimes, including the recruitment of children. The delegation replied that the State party had universal jurisdiction over crimes covered by its international commitments. The accession to the Rome Statutes of the International Criminal Court therefore included the obligation to undertake criminal prosecution for the war crime of the recruitment or deployment of children under 15 in wartime. However, the delegation pointed out that there was no equivalent provision against recruitment in peacetime. Thus, children between the ages of 15 and 18 were unprotected. They asked the Committee for advice on how to deal with this gap as well as for examples of best practice in other countries' national legislation. The Committee did not answer the question, although it pointed out that Lithuania had criminalised the recruitment of children under all circumstances. The delegation admitted that there had not yet been a war crimes trial involving the recruitment of children, and did not answer a question on the apparent problems with extradition from Serbia. The delegation did not give an answer on whether there was any provision for lowering the age of recruitment in exceptional circumstances.

Monitoring implementation

The Committee asked about the body responsible for monitoring the implementation of the OPAC and whether there was an internal system for evaluating the implementation. The delegation replied that the Children's Ombudsman monitored children's rights generally, including the implementation of relevant international treaties.

The Committee asked how interventions by the Ombudsman worked in practice. The delegation stated that the Ombudsman dealt with both general and individual problems. It pointed out that the Ombudsman was obliged to address violations of the rights of a child, as were the courts, and that children could apply directly to him. The delegation also mentioned that the Ombudsman read and could suggest amendments to draft legislation concerning children. The Committee asked whether there were sometimes problems with including these amendments in the laws. The delegation stressed that the Ombudsman worked closely with the relevant ministries and was greatly respected. It pointed out that he could and did also raise issues of concern in public fora. The delegation did not answer the question of whether the Ombudsman had jurisdiction over the armed forces and police.

The Committee wished to know whether the Ombudsman was supplied with sufficient resources to carry out all his functions. The delegation was unable to provide the Committee with details or

figures, but agreed that the state should provide sufficient funding for all the actions the Ombudsman might wish to perform. It commented that there was never enough money for everything.

Armed forces and Peacekeepers

The Committee asked for more information on the age at which students could enter the military academies. It was particularly concerned to know whether such schools were run by military or civilian personnel and whether weapons training was provided. It also asked about the nature of the contracts signed by the students and the correlation between attendance at a military school and enrolment in the armed forces after graduation. The delegation explained that the military academies were university level and did not admit students under 18. The Committee agreed that there was therefore no need to answer the other questions on the subject. The delegation did not confirm the absence of police schools.

The Committee asked whether high unemployment encouraged children to join the armed forces before they reached 18. It also asked about existing mechanisms to prevent this issue. The delegation replied that this was not a problem since military salaries were low and young people appeared to find the army unattractive. They pointed out that volunteers had to complete secondary school (creating a de facto age limit of 19) before they were accepted.

The Committee noted that there were provisions for conscripts to perform alternative (civilian) service and asked whether this was the same length as the military service. The delegation replied that civilian service lasts nine months, which was three months more than military service.

The Committee asked whether peacekeepers received training on children's rights. The delegation replied that all peacekeepers received such training and had to pass a test on international humanitarian law before they were sent on mission. More advanced training on children's rights was provided to those who were expected to work with children.

The Committee asked whether the State party had received reports of violations by its peacekeepers, and if so what measures were taken to deal with the perpetrators. The delegation said that they were not aware of any violations by Croatian peacekeepers.

Dissemination

The Committee asked whether training on the CRC and Optional Protocols were provided to all members of the armed forces or only to peacekeepers. The delegation replied that all members of the armed forces receive basic training on international humanitarian law, including the CRC, and that peacekeepers, officers and recruiters received more advanced training.

The Committee asked about the other measures the State party had taken to raise awareness of the OPAC as well as the languages the text had been disseminated in. The delegation replied that the OPAC had been printed in the Official Gazette in English and Croatian and was available on the website.

The Committee asked how the report and concluding observations would be disseminated and discussed once they had been adopted. The delegation replied that the concluding observations would be circulated to all relevant bodies and published in the journal 'Child and Society' (along with the delegation's reflections on the dialogue). This journal was broadly circulated, including in most schools. The state was also planning to organise a round table with NGOs and civil society to exchange views and disseminate information on the recommendations.

The Committee asked whether civil society had been involved in the preparation of the report. The delegation admitted that the government had written the report without involving civil society. However, they stressed that they were aware of the importance of involving civil society, which they planned to do in the dissemination of the concluding observations.

The Committee asked about the dissemination of the OPAC to children. The delegation responded that human rights and the rights of the child were included in the school curriculum and that the state was involved in regional initiatives for peace education.

Asylum seekers

The Committee asked how the government identified children who may have been involved in armed conflict among the asylum seekers. It also wanted to know more about the recovery and rehabilitation services provided. The delegation did not give a clear answer to the first question, but stated that all children were guaranteed equal rights, including access to health care and humanitarian aid.

Rehabilitation services for War affected Children

The Committee asked about the rehabilitation services available for children affected by war. It also wanted to know what proportion of these services were provided by the government rather than by NGOs and/or UN agencies and how many children had benefited. The delegation apologised for its inability to give an answer, but confirmed that there were still rehabilitation services available, although the number had decreased, as it had been over a decade since the end of the war.

Production and export of arms

The Committee asked whether there was effective prohibition on the export of arms, especially small arms, to countries in which children were recruited or used in armed conflict. The delegation responded that the rules on transport and trade in arms were in accord with European Standards. The delegation remarked that as far as they were aware there was no specific offence in the Criminal Code dealing with the trade of arms to countries where children were recruited, but pointed out that the relevant laws were due to be reviewed and amended soon.

Concluding Remarks

Mr. Parfitt thanked the delegation for their answers. He commended the State party on its efforts to comply with international standards and hoped that the concluding observations would provide the guidance the delegation had asked for.

Mr. Branko Sočanac thanked the Committee for their questions and hoped that the delegation had answered most of them. He promised to provide written responses on the matters the delegation had lacked information on.