

STATE PARTY EXAMINATION OF THE MOLDOVA'S FIRST PERIODIC REPORT ON THE OPAC

50TH SESSION OF THE COMMITTEE ON THE RIGHTS OF THE CHILD
12 JANUARY – 30 JANUARY 2009

Topics covered in this report:

Legislation and interpretation of the OPAC, sale of arms, children in armed conflicts, military service and recruitment, budget allocation, training and dissemination.

Moldova ratified the Optional Protocol on the Involvement of Children in Armed Conflict (OPAC) on 7 April 2004. On 20 January 2009, the Committee on the Rights of the Child (the Committee) examined Moldova's initial report.

Mr. Igor Malai, the Deputy Minister of Defence of the Republic of Moldova, stated that defending the homeland was the duty of each citizen and that the Ministry of Defense was the responsible body to monitor the implementation of the Protocol. The minimum age of recruitment was set at 18 in Moldova, and any involvement of children in military activities is prohibited. As there were no military actions under way, any direct participation in military actions of people under the age of 18 was ruled out. The minister explained that when boys reached 16, they were put on military lists for future call-ups, during which their duties, rights and rules of military service were explained to them. In addition, medical exams including psychological tests were carried out to determine whether the boys were able to undergo military service or not. Given the preliminary assignments, they were called up for military service.

There were also military institutions for those who had completed their military service, where they could be enrolled as students up to age of 25. Enrolment in these institutions was based on 4-year contracts, which was subject to dismissal upon violating the rules of the service or contract.

There were approximately 65 refugee children from countries stricken by armed conflicts. National institutions together with NGOs were working on to provide physical and psychological support to these children.

Mr Malai informed that the Government was responsible for monitoring the export and import of weapons to foreign States and units. There were special principals and procedures to be followed, such as obtaining permits followed by a verification of the necessary credentials. In conclusion, the minister stated, that the legislation in Moldova had been brought in-line with international standards, including the OPAC. Mr. Parfitt, serving as the country Rapporteur, noted that the legislation in Moldova was more or less in compliance with the Protocol. However, regarding recruitment of children, the Committee was concerned about the fact that 16-years old were called to register for military service and 17-years old could be enrolled in military school. It asked whether these children were listed as military persons

and, therefore, subject to military law, or if they maintained their civil status. On extraterritorial jurisdiction and criminal sanctions on recruitment, Mr. Parfitt asked whether it pertained to people who recruited for armed groups and not only national forces and also, if the Government had judicial rights to prosecute a non-national in Moldova who had been involved in recruiting children abroad. The delegation was also asked whether there was any active recruiting by separatist forces in Transnistria and if so, whether the Criminal Code would apply to those situations.

General Measures of Implementation

Legislation and Interpretation of OPAC

The delegation noted that no matter whether children were recruited by a non-national within the territory of Moldova or by a Moldovan citizen outside its territory, the violations were liable to be punished under Moldovan law.

The Committee asked whether the Ombudsman had jurisdiction over the military and if there were any complaint mechanisms for children.

The delegation responded that there was an institution called Inspectorate that dealt with monitoring and where any citizen could make complaints about their military service. In addition, the unit had hotlines where citizens could make anonymous calls. The Ombudsman could also receive questions or complaints, including those on violations under the OPAC.

Mr. Parfitt wondered whether the ministry in charge of monitoring the sale of arms was aware of the provisions of the OPAC. The delegation explained that in States where child soldiers were exposed to armed conflicts, the Government banned all possible sales of arms. The delegation also stated that arms were only exported for civilian purposes. It noted that during the recent conflict in Georgia, the ammunition was claimed to be delivered from Moldova, however, an investigation was carried out and the accusations turned out to be false.

As regards small arms, the Committee referred to the permits reportedly issued by the Ministry of Economy. The Committee was concerned whether the Ministry was aware of the OPAC and considered the final user of exported arms. The delegation informed that under the Moldovan law citizens above 18 had right to bear personal weapons. Only a specialized department was eligible to grant a license for weapons. The Committee asked whether weapons and technology inherited from the Soviet era, had found their way into conflict areas. The delegation stated that weapons left after the collapse of the Soviet Union had become obsolete. There was however a case where the sale MIG-29 planes were further sold to the United States and might have been used in armed conflict.

Children in Armed Conflicts

The delegation stated that starting from 1990 several constitutional measures had been undertaken to guarantee that children were not engaged in armed conflicts. There were no incidents of such recruitments registered after this amendments came into force. Conversely, the records on children affected by armed conflicts were lacking.

The Committee asked to what extent children could be affected by armed conflict including by domestic uprisings; whether there was rehabilitation for these children and whether professionals working with children were aware of the Optional Protocol. The delegation responded that the relevant body dealing with data on refugees, closely looked into the

identities of children allegedly affected by armed conflict. If information was found and confirmed, social security bodies did everything in terms of recovery and rehabilitation.

Military Service and Recruitment

The Committee asked about the status of the schools enrolling 17 years old children, particularly whether they were military or civilian schools; whether the curriculum was a regular one or was adjusted to train future soldiers.

The delegation responded that those admitted under the age of 18 could under no conditions be involved in military conflicts. Minors were also considered as students or trainees and were not subject to military law. Those who had been registered, were inspected by the Ministry of Defence and the Ministry of Health to ensure their fitness for service and received general training on the rules applicable to the military. Students could also end their military training and return to a regular school, furthermore, students were only considered as soldiers once turned 18, upon signing a contract and taking the military oath, which granted them status of “contract-soldiers”. The delegation noted that children could not be called up for more than three times if they failed the medical check ups. This was an attempt to identify whether they were really interested in military service and whether they could do their service. If any diseases were discovered, the government would pay for a full course of treatment. The curriculum was 50 per cent adjusted to the regular one with an emphasise on humanitarian law and military training.

Training and Dissemination

The Committee asked whether the protocol was disseminated amongst children in general and amongst those in military schools, whether peace education was part of the curricula for schoolchildren, as well as for the general population and whether there were any peace and human rights education within these military schools. The delegation asserted that all children by the age of 18 had gained knowledge on the Convention; as well OPAC as these courses were included in the curriculum of secondary schools.

The Committee wanted to know whether there had been broad publicity on recruitment in military schools. The delegation replied that publicity was done for patriotic purposes and not for propaganda.

Concluding Remarks

Mr. Parfitt thanked the delegation for the report, which he believed was in compliance with objectives of the OPAC. There were still some areas of concern remained to be addressed, such as the recruitment of 16-18 years old children as well as asylum seekers affected by war. The Committee acknowledged that the information provided during the session did clarify the written replies, as well as the list of issues.