

**COMMITTEE ON THE RIGHTS OF THE CHILD
Forty-third session**

**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 CONFLICTS**

Concluding observations: Malta

1. The Committee considered the initial report of Malta (CRC/C/OPAC/MLT/1) at its 1160th meeting (see CRC/C/SR.1160), held on 11 September 2006, without the presence of a delegation of the State party which, in accordance with the Committee's decision number 8 adopted during the 39th session, opted for a technical review of the report. The Committee adopted at its 1199th meeting, held on 29 September 2006, the following concluding observations.

A. Introduction

2. The Committee welcomes the submission of the State party's initial report as well as its replies to the list of issues.
3. The Committee reminds the State party that these concluding observations should be read in conjunction with its previous concluding observations adopted on the State party's initial report on 28 June 2000 contained in CRC/C/15/Add.129.

B. Positive aspects

4. The Committee notes with appreciation that, although there is a Junior Leader Scheme under the Malta Armed Forces Act whereby persons under the age of 17 years and 6 months could be potentially recruited for training in a non-combatant position, no recruitment under the age of 18 years has taken place since 1970.
5. It further welcomes the ratification by the State party of:
 - a. ILO Convention no 182 concerning the Prohibition and Immediate Action for the Elimination of the Worst Forms of Child Labour, on 15 June 2001;
 - b. the Rome Statute of the International Criminal Court on 29 November 2002.

C. Principle areas of concern and recommendations

C.1. General measures of implementation

Legislation

6. The Committee is concerned that there are no specific provisions in the State party's legislation criminalizing the compulsory recruitment of a person under 18 or any other violation of the provisions of the Optional Protocol. It also notes the information that the State party does not assume extra-territorial jurisdiction over the war crime of conscripting or enlisting children under the age of fifteen into the armed forces or using them to participate actively in hostilities.
7. **In order to strengthen the national and international measures for the prevention of the recruitment of children for armed forces or armed groups and their use in hostilities, the Committee recommends that the State Party:**
 - a) **explicitly prohibit by law the recruitment of children under the age of fifteen years into armed forces/groups and their direct participation in hostilities;**
 - b) **explicitly prohibit by law the violation of the provisions of the Optional Protocol regarding the recruitment and involvement of children in hostilities;**
 - c) **establish 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;**
 - d) **stipulate explicitly that military personnel should not undertake any act that violates the rights enshrined in the Optional Protocol regardless of any military order to that effect.**

Dissemination and training

8. The Committee regrets the lack of information about dissemination and training with respect to the Optional Protocol.
9. **The Committee recommends that the State party ensure that training activities on the Optional Protocol are provided to the armed forces. It further recommends that the State party develop systematic awareness-raising, education and training programmes on the provisions of the Optional Protocol specifically addressed to all relevant groups working with and for children, notably professionals working with asylum-seeking, refugee and migrant children entering Malta from countries affected by armed conflict, such as medical professionals, social workers, police officers, teachers, lawyers and judges. The State party is invited to provide information in this respect in its next report.**

C. 2. Recruitment of children

10. The Committee notes that, according to Title II Chapter 220 of the Armed Forces Act, it is prohibited to recruit a person under the appropriate minimum age (which in Malta is 17 years and 6 months) 'unless consent to the enlistment has been given in writing' by the parents or by any other person in whose care the person

offering to enlist may be. The Committee regrets that there is no indication of a minimum age under which it would not be possible to recruit children under any circumstance, i.e. even with parental or other legal guardians' consent.

11. **The Committee recommends that the State party establish by law a minimum age for the voluntary recruitment into its national armed forces under which recruitment of children would be prohibited with no exceptions. This 'absolute' minimum age for voluntary recruitment should reflect and institutionalize the good practice of the State party whereby no recruitment of under 18s has occurred since 1970.**

C. 3. Measures adopted with regard to disarmament, demobilization, physical and psychological recovery and social reintegration

12. The Committee notes that the State party is a country of transit and destination of asylum-seekers and migrants, including children, some coming from countries affected by armed conflict. In this respect, the Committee, while noting that the Children and Young Persons (Care Orders) Act has provisions taking care of unaccompanied minors and that the residential setup "Dar is Sliem" offers shelter and services to unaccompanied asylum seekers who are under 18, is concerned at the practice of automatic detention of all persons entering Malta in an irregular manner. While the duration of this detention has been recently reduced to a maximum of 18 months and despite the policy providing that children should not be detained, the Committee is concerned at the information that – in practice – some children and unaccompanied minors, including children coming from countries affected by armed conflict, are detained in certain cases pending the finalization of the process for their release.

13. **The Committee recommends that the State party:**
 - a) **identify at the earliest possible stage refugee, asylum-seeking and migrant children entering Malta who may have been involved in armed conflicts;**
 - b) **carefully examine the situation of these children, prohibit their detention in any case and provide them with immediate, culturally sensitive and multidisciplinary assistance for their physical and psychological recovery and their social reintegration in accordance with article 6 (3) of the Optional Protocol;**
 - c) **systematically train authorities working for and with refugee, asylum-seeking and migrant children coming from countries affected by armed conflict;**
 - b) **engage in international cooperation in this respect and provide further information on this issue in its next report.**
14. **In this respect, the Committee further wishes to draw the State party's attention to the Committee's General Comment No. 6 (CRC/GC/2005/6) on treatment of unaccompanied and separated children outside their country of origin.**

C.4. Follow-up and dissemination

15. **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 members of the Cabinet or a similar body, the House of Representatives, the Defence Ministry and to provincial authorities, where applicable, for appropriate consideration and further action.**
16. **In the light of article 6, paragraph 2, of the Optional Protocol, 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 in order to generate debate and awareness of the Optional Protocol, its implementation and monitoring.**

C.5. Next report

17. **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, in accordance with article 44 of the Convention.**