



Convention on the Rights of the Child

Distr.: General
5 June 2015

**ADVANCE UNEDITED
VERSION**
Original: English

Committee on the Rights of the Child

Concluding observations on the report submitted by the Netherlands under article 8, paragraph 1, of the Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict*

1. The Committee considered the initial report of the Netherlands (CRC/C/OPAC/NLD/1) at its 2005th meeting (see CRC/C/SR.2005), held on 27 May 2015, and adopted at its 2024th meeting (see CRC/C/SR.2024), held on 5 June 2015, the following concluding observations.

I. Introduction

2. The Committee welcomes the submission of the State party's initial report and its written replies to the list of issues (CRC/C/OPAC/NLD/Q/1/Add.1). The Committee expresses its appreciation for the constructive dialogue held with the high level and multi-sectoral delegation of the State party.

3. The Committee reminds the State party that the present concluding observations should be read in conjunction with the concluding observations on the State party's fourth periodic report under the Convention on the Rights of the Child (CRC/C/NLD/CO/4) adopted on 5 June 2015.

II. General observations

Positive aspects

4. The Committee welcomes the accession or ratification by the State party of:
- (a) The Convention on Cluster Munitions, in February 2011;
 - (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, in February 2005;
 - (c) The Rome Statute of the International Criminal Court, in July 2001; and

* Adopted by the Committee at its sixty-ninth session (18 May – 5 June 2015).

(d) The Geneva Conventions of 1949, in August 1954 and the Additional Protocols I and II thereto, in June 1987.

5. The Committee welcomes the various positive measures taken in areas relevant to the implementation of the Optional Protocol, in particular:

(a) The State party's declaration made upon the ratification of the Optional Protocol that the minimum age for conscription for military service and entering into a contract to perform military service is 18 years; and

(b) Amendments to the Military Personnel Act of 1931, establishing 18 as the minimum age for joining the armed forces, in 2009.

III. General measures of implementation

Dissemination, awareness raising and training

6. The Committee notes that the awareness raising activities on the Optional Protocol are carried out mostly by non-governmental organizations and regrets that there are no systematic awareness raising activities on the Optional Protocol carried out by the State party. It also regrets that, as stated by the State party (CRC/C/OPAC/NLD/Q/1/Add.1, para 4), there are no training courses on the Optional Protocol.

7. The Committee recommends that the State party take all necessary measures to enhance the knowledge of its armed forces, peacekeepers and all other relevant professional groups, including the police, immigration officials, judges, lawyers, medical and social workers and teachers on the provisions of the Optional Protocol and conduct regular awareness raising activities among children themselves and public in general.

Data

8. The Committee is concerned about the lack of data on asylum-seeking, refugee and migrant children who enter the State party and may have been recruited or used in hostilities abroad.

9. The Committee recommends that the State party establish a mechanism for the comprehensive collection of data, disaggregated by sex, age, nationality and ethnic origin for asylum-seeking, refugee and migrant children who enter the State party and may have been recruited or used in hostilities abroad.

IV. Prevention

Voluntary recruitment

10. The Committee notes that the State party's legislation allows voluntary recruitment of persons at the age of 17 years as aspiring military officers. However, it is concerned that such aspiring military officers are trained on the use of firearms with live ammunition and are subjected to military discipline and military criminal law.

11. The Committee recommends that the State party prohibit the current practice of training aspiring military officers at the age of 17 years on the use of firearms and ensure that they are not subjected to military discipline and military criminal law. The Committee encourages the State party to review and raise the minimum age of voluntary recruitment to 18 years in order to promote and strengthen the protection of all children.

Military courses

12. The Committee is concerned that children as young as 15 years of age who are enrolled in the Security and Skills (VeVa) vocational course are subjected to harsh mental and physical training modules that may be harmful to their health and development.

13. **The Committee recommends that the State party take all necessary measures to ensure that the VeVa course does not include mental and physical training modules that are harmful to the health and development of children and establish regular monitoring of VeVa courses to ensure that the curriculum and the teaching personnel comply with the Optional Protocol.**

V. Prohibition and related matters

Criminalization of recruitment by non-State armed groups

14. The Committee notes that the Criminal Codes of the State party's constituencies prohibit recruiting volunteers to serve in the armed forces of a foreign state or to take part in an armed conflict. However, it is concerned that such criminalization is not explicit with regard to the recruitment of children under the age of 18 years by non-state armed groups. The Committee also notes the draft bill introduced by the Minister of Security which can revoke the Dutch nationality of a person, including children, who has been involved with a terrorist organization and that the Ministry is currently working on introducing exceptions to the draft bill.

15. **The Committee recommends that the State party introduce amendments to the criminal legislations of its constituencies in order to ensure explicit criminalization of recruitment of children under the age of 18 years by non-state armed groups. It also recommends that the State party ensure that its bill revoking the Dutch nationality of persons involved with a terrorist organization does not apply to children below the age of 18 years under any circumstances, even in cases when a child has a double nationality, due to the negative consequences that statelessness or losing one's nationality can cause to children.**

Extraterritorial Jurisdiction

16. The Committee welcomes the State party's International Crime's Act recognition of the drafting into service, or use for active participation in hostilities, of children under 15 years of age by the armed forces and armed groups as a war crime and that under the same act the State party can exercise extraterritorial jurisdiction to prosecute any person who commits war crimes, crimes against humanity and genocide. However, the Committee is concerned about the absence of a provision in the State party's legislation that extends the extraterritorial jurisdiction to prosecute persons who violate the provisions of the Optional Protocol against children between 15 and 18 years of age.

17. **The Committee recommends that the State party establish extraterritorial jurisdiction over acts prohibited under the Optional Protocol, including the conscription or enlistment of children below the age of 18 years into the armed forces or armed groups, or their use in hostilities, if such crimes are committed by or against a national of the State party or a person who has his or her habitual residence in the State party.**

VI. Protection, recovery and reintegration

Measures adopted to protect the rights of child victims

18. The Committee notes that children below the age of 15 years are exempted from article 1 F of the 1951 Convention relating to the Status of Refugees, which excludes protection of those who committed a crime against peace, a war crime or a crime against humanity. However, it is seriously concerned that such exemption does not extend to all children below the age of 18 years.

19. **The Committee strongly recommends that the State party amend its legislation regarding the exemption from article 1 F of the 1951 Convention relating to the Status of Refugees without delay and herewith extend the protection provided under the Refugee Convention to all children between 15 and 18 years of age irrespective of crimes committed.**

Assistance for physical and psychological recovery and social reintegration

20. The Committee is concerned that the State party's mental health services do not have sufficient expertise in dealing with children who have been victims of armed conflict.

21. **The Committee recommends that the State party take measures to strengthen its services in order to provide children coming from conflict affected areas abroad with appropriate services for their psychological and physical recovery and their integration into the society.**

VII. International assistance and cooperation

International cooperation

22. **The Committee recommends that the State party continue and strengthen its cooperation with the International Committee of the Red Cross and with the Special Representative of the Secretary-General for Children and Armed Conflict, and that it explore increased cooperation with the United Nations Children's Fund (UNICEF) and other United Nations entities in the implementation of the Optional Protocol.**

Arms export and military assistance

23. The Committee notes that the State party is a large exporter of arms, including small arms and light weapons, and that all export application licenses are assessed on a case by case basis in the light of the European Common Position concerning arms export control. However, the Committee is concerned that the State party does not have its own policy or regulation that specifically prohibits the export of arms to countries where children are known to be, or may potentially be, recruited or used in armed conflict and/or hostilities.

24. **The Committee recommends that the State party introduce a ban on export of arms to countries where children are known to be, or may potentially be, recruited or used in armed conflict and/or hostilities. It also recommends that the State party ratify the Arms Trade Treaty which it signed in 2013.**

VIII. Follow-up and dissemination

25. **The Committee recommends that the State party take all appropriate measures to ensure the full implementation of the present recommendations by, inter alia, transmitting them to the Parliament, relevant ministries, including the Ministry of**

Defence, the Supreme Court, and to local authorities, for appropriate consideration and further action.

26. The Committee recommends that the initial report and written replies submitted by the State party and the related concluding observations adopted by the Committee be made widely available, including through the Internet, 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.

IX. 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 the present concluding observations in its next periodic report under the Convention on the Rights of the Child, in accordance with article 44 of the Convention.
