



Convention on the Rights of the Child

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Committee on the Rights of the Child

Consideration of reports submitted by States parties 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

Initial reports of States parties due in 2005

Greece*

[29 January 2010]

* In accordance with the information transmitted to States parties regarding the processing of their reports, the present document was not edited before being sent to the United Nations translation services.

I. Introduction

1. Greece signed the Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflicts on 7 September 2000 and ratified it by virtue of Law 3080/2002 (Official Gazette A' 312/10.12.2000).
2. In this initial report, Greece presents to the Committee on the Rights of the Child the measures it has taken to give effect to the provisions of the Optional Protocol. This report has been prepared in the light of the guidelines regarding initial reports to be submitted by States parties in accordance with article 8, paragraph 1 of the Optional Protocol. Any further information with respect to the implementation of the Optional Protocol will be included in the periodic reports that must be submitted every five years pursuant to article 8, paragraph 2 of the Optional Protocol.
3. The present report is based on contributions by the Ministries of Defence, Justice, Interior and Foreign Affairs.

II. General measures of implementation

4. The Optional Protocol was ratified by virtue of Law 3080/2002 (Government Gazette 312A) and entered into force in respect of Greece on 22 November 2003 (in accordance with article 10, paragraph 2 of the Optional Protocol).
5. According to article 28, paragraph 1 of the Constitution, the Optional Protocol, following its ratification by law and its entry into force in respect of Greece, has become an integral part of domestic law and prevails over any contrary provision of the law. Following their incorporation into the Greek legal order, international treaties can be invoked directly before courts and other administrative authorities, insofar as they possess a self-executing character.
6. The Optional Protocol applies to all Greek territory and all persons under the jurisdiction of the Greek State.
7. The main bodies of Armed Forces entrusted with the implementation of the institution of enlistment are the Ministry of National Defence, the Enlistment Directorate of the General National Defence Staff, the Enlistment Directorates of the General Staffs of the Branches (Army-Air Force-Navy), the Enlistment Administrations and the Enlistment Offices. Enlistment Offices are the basic units of the Enlistment Corps of Armed Forces. They are located in the capitals of the country's prefectures, they are common to all three branches of Armed Forces and their mission is to collect necessary information for enlistment preparation and enlistment and the monitoring of the fulfilment of military obligations by all Greek nationals. They are the main liaison between citizens and Armed Forces. The powers of Enlistment Offices are restricted to all males (subject to enlistment) entered in the male registry of the municipalities and communities of the prefecture in whose capital they are located.
8. National human rights institutions, as well as many important organizations (such as the National Observatory for the Rights of the Children) and non governmental organisations are active on human rights issues, which also include the rights guaranteed in the Optional Protocol.
9. With regard to national human rights institutions, the Department of Children's Rights of the Office of the Ombudsman was established by Law 3094/2003. In fulfilment of its mission, the Department mediates in specific cases in which a child's rights are being violated, following a complaint filed by a citizen, aiming at the protection of the child and

at the restoration of his/her rights. If necessary, in cases of serious violations, the Ombudsman acts on his/her own initiative. Moreover, the Department undertakes initiatives in order to monitor and promote the implementation of international conventions and of the national legislation on children's rights, to inform the public, to exchange views with representatives of other institutions and to elaborate and submit proposals to the Government.

10. The Greek National Commission for Human Rights, founded by Law 2667/1998, provides reports and recommendations to the Greek State aimed at the establishment of a modern, principled policy of human rights protection, including in the field of children's rights. NCHR reports and recommendations are forwarded to all competent ministries. A number of recommendations contained in NCHR reports have been adopted by the competent authorities.

11. A number of NGOs are active in the field of the protection of children's rights, including the Marangopoulos Foundation for Human Rights, ARSIS-Social Organization for the Support of the Youth, the Institute for the Health of the Child, "Save the Children", the Centre for Care of the Family and the Child, the Centre for Support to Children and the Family, the "Smile of the Child".

III. Prevention (arts. 1, 2, 4, para. 2, and 6, para. 2)

12. The legal status governing the institution of enlistment in Greece is determined by the Constitution of the country (art. 4), the laws of the Greek Parliament and the presidential decrees and ministerial decisions issued in implementation thereof.

13. In the context of the above constitutional prescription, Law 3421/2005 "Enlistment of Greek nationals and other provisions" (Government Gazette 302/13 Dec 2005, issue A) was issued and is in force. This law determines, inter alia, the age-related conditions for the fulfilment of military obligations of young people in Greek Armed Forces, both at mandatory and voluntary levels. The law is fully in line with the United Nations general principles for the protection of children, since it does not allow for the enlistment of children. Specifically:

(a) Only draftees in their nineteenth year of age are called every year for enlistment in Armed Forces (art. 1 of the law);

(b) Young people wishing to fulfil their military obligations before their mandatory call are allowed to enlist voluntarily only after they come of age, i.e. after they become eighteen years old (art.38 of the law);

(c) In periods of general mobilization or war, Greek nationals or Greek expatriates may enlist voluntarily on the same condition (being of age) (art. 39 of the law).

14. As regards young people wishing to have a professional career in the Armed Forces as Professional Soldiers, one of the requirements of the relevant law (art. 2 of Law 2936/2001, Government Gazette 166 A/25 July 2001), in conjunction with Civil Law and Labour Law, for the participation of candidates in the tests, is their coming of age (18 years old).

15. The chronological stages of the enlistment preparation and the enlistment itself are:

(a) The source of information about Greek nationals to be enlisted is the male registries, compiled and kept by all municipalities and communities of the country. Copies thereof are also kept by Prefectures and Enlistment Offices;

(b) The male registries compiled in the first two months of every year and include males born in the preceding year (irrespective of whether they were born and reside in Greece or abroad), according to official data transmitted to competent mayors and community presidents by registrars or consular authorities;

(c) On the basis of the annual male registries, the country's municipalities and communities prepare enlistment tables by class every year for persons being 17 years of age;

(d) On the basis of enlistment tables, Enlistment Offices prepare the enlistment records of each class every year for persons being 18 years of age. It should be noted that the enlistment class is the number resulting from adding 21 to the year of birth by which each person is entered in the male registries. For example: the military record of class 2012 includes all males born in 1991 (from 1 January to 31 December);

(e) Essentially, the first contact of citizens to be enlisted with Armed Forces is made in January and February of the year in which they become 19 years of age;

(f) In the course of these two months, draftees are obliged to submit a Census Card to their Enlistment Office or the Enlistment Office of their place of residence or the Citizen Service Centre (KEP) of the municipality or community in which they reside (for instance, persons born in 1991 will submit a Census Card in January and February 2009);

(g) The Census Card is a special form that comprises personal information required for enlistment, such as religion (optional), exact date of birth, literacy-technical knowledge, somatometric data, occupation/profession, special knowledge, sports performance, home address, any health problems etc.;

(h) The class is initially called for enlistment in Armed Forces at the beginning of the year following the year in which the Census Card was submitted;

(i) Draftees in all three branches are called gradually, usually by prefecture, in four Training Series of Draftee Soldiers in February, May, August and November;

(j) Draftees are classified by training series in special units (Enlistment Centres) for each branch of Armed Forces (Army-Navy-Air Force), following the relevant order-call of the Minister of National Defence, on the basis of individual Enlistment Cards that are forwarded to draftees by the Enlistment Office of their place of origin and are delivered to them by the police authorities of their place of residence.

16. The voluntary enlistment of young people is covered by the legislation, as stated in paragraph 8(b) hereof, and is always implemented at the request of the interested party after he/she has come of age.

17. There is a maximum age limit for the admission of candidates in Higher Military Educational Establishments and Higher Military Academies for Non-commissioned Officers. If the candidate is underage at the date of submission of the relevant documentation, the application-statutory statement of the candidate is signed and attested by his/her parents or guardians. The education provided, pursuant to the bylaws of the schools, is academic and military and includes courses in International Law and Humanitarian Studies.

IV. Prohibition and related matters (art. 1, 2 and 4, paras. 1 and 2)

18. The national legislation does not include provisions that could give rise to obstacles of a legal nature for the implementation of the Optional Protocol.

19. The Greek criminal law does not provide for the criminal liability of legal entities. Instead it provides for an equivalent administrative liability of legal persons.

20. All criminal offences (with the exception of those that fall within the scope of the Military Criminal Code) are judged by the ordinary criminal courts.

21. The establishment of extraterritorial jurisdiction for criminal offences is provided for in articles 6, 7, 8 and 9 of the Criminal Code.¹

22. In the framework of international cooperation in the area of extradition the Greek State has entered into all the major multilateral international conventions, such as the European Convention on Extradition, which applies to the Member States of the Council of Europe. Moreover, the Council Framework Decision of 13 June 2002 on the European arrest warrant and the surrender procedures between Member States regulates issues of extradition of persons between the Member States of the European Union and replaces the European Convention on Extradition in relations between the Member States of the EU.

V. Protection, recovery and reintegration (art. 6, para. 3)

23. The existing national law leaves no space for instances of violations of the protection measures for children, as this is provided in articles 1 and 2 of the Optional Protocol. It is noted that the Ministry of Health and Social Welfare provides services of social workers who are able to respond to the needs of children confronted with any kind of problems.

24. It is possible to conduct trials behind closed doors in order to protect the child's identity (art. 330 of the Code of Criminal Law). Also the principle of protection of personal data does not allow the mentioning of the names of the parties in judgments which have been made public.

25. For any illegal action of the administrative authorities of the State, which also includes violations of the rights protected under the Optional Protocol, according to the provisions of article 105 of the Introductory Law to the Civil Code (Intro. C.C), full compensation shall be awarded (covering any loss or moral harm incurred).

26. The Constitution in article 21 establishes the obligation of the State to protect childhood. This provision is the appropriate basis for the adoption and implementation of measures for the promotion of the protection of the child.

VI. International assistance and cooperation (art. 7, para. 1)

27. Both in the United Nations and in the European Union (EU) context as well as bilaterally, Greece firmly supports an improvement in the protection of children in armed conflicts, including implementation of the Optional Protocol and its application if possible on a worldwide basis.

28. On 8 December 2003, following consultation with the Special Rapporteur, UNICEF and non-governmental organizations, the Council of the EU adopted a set of guidelines on children and armed conflict. These demonstrate the commitment of the EU to equip itself with a broad range of instruments for the promotion of children protection: political measures, as well as integration of the issue of children in armed conflicts in all external relations and crisis management, including in peacekeeping operations. This issue is also

¹ Annex IV.

covered as part of humanitarian programmes carried out by the Humanitarian Aid Office of the European Commission, including the European Instrument for Democracy and Human Rights.

29. On 9 December 2004, the guidelines resulted in the adoption of a European Union Plan of Action on children in armed conflict, which is designed to give them more practical application.

30. In 2008 the EU carried out a revision of its 2003 Guidelines on children and armed conflict. The initial list of countries for priority action by the EU (Afghanistan, Burundi, Colombia, Cote d'Ivoire, DRC, Liberia, Myanmar, Nepal, Philippines, Somalia, Sri Lanka, Sudan and Uganda) was extended to include six new situations of concern: Israel, the Palestinian Occupied Territories, Haiti, Lebanon, Chad and Iraq.

31. To promote implementation of these Guidelines, the EU instructed Ambassadors to draw up individual strategies with regard to the priority countries/situations of concern to provide information on the six thematic issues identified in the Guidelines (recruitment, killing and maiming, attacks on schools and hospitals, blockage of humanitarian access, sexual and gender-based violence and violations and abuses).

32. In 2008, the EU also adopted a revised checklist, the aim of which is to integrate the protection of children affected by armed conflict into the European Security and Defence Policy missions and operations. The Slovenian EU Presidency commissioned a study entitled "Enhancing the EU response to children affected by armed conflict" with a view to improving the mainstreaming of rights of children affected by armed conflicts into the EU development policy and programming.

33. On 19 June, the European Council adopted conclusions on the rights of the child, in particular on children affected by armed conflict. The Council called on the Commission and the EU Member States to continue ensuring coherence, complementarity and coordination of human rights, security and development policies and programmes with a view to addressing the short, medium and long-term impacts of armed conflicts on children in an effective, sustainable and comprehensive manner.

34. Furthermore, the EU has sought strengthened cooperation with the United Nations, in particular with the Special Representative of the United Nations Secretary-General for children and armed conflict, Ms. Coomaraswamy, and the United Nations Security Council working group on children and armed conflict. For instance, Ms Coomaraswamy was invited in April 2008 to brief the Council on her activities and on possibilities of cooperation between the United Nations and the EU.

35. In July 2006 Greece gave its support — together with its EU partners — to a declaration by the President of the Security Council on the subject of "Children and Armed Conflict", which, amongst other things, contains an appeal to the international community to make a common effort to bring about a distinct improvement in the protection of children in conflict situations of this kind.

Annex I

Law No. 3421/2005

“Conscription of Greeks to military service – miscellaneous provisions” (published in Official Gazette No. 302/13/DEC 05/A)

Section A

General provisions – definitions

Article 1

Persons liable for military service

1. All Greek citizens, from January 1st of their nineteenth (19th) year of age till December 31st of the year they attain their forty fifth (45th) year of age, are liable for military service, according to the provisions of this law.

Article 38

Premature recruitment in Armed Forces

1. Upon a decision of the Minister of National Defence, rendered after a proposal of the Chief of the National Defence General Staff and published in the Official Gazette of the Hellenic Republic, adult Greeks who have not yet been invited for recruitment may enlist with the Armed Forces, in order to fulfill their military obligations.

2. The said decision determines further the invitation and recruitment procedures, along with any other necessary detail.

Article 39

Voluntary recruitment with the Armed Forces

1. During a general military draft or a war, a decision of the Minister of National Defense which is not published in the Official Gazette of the Hellenic Republic, may allow for the voluntary recruitment of reserve officers, persons who are liable for military service being of a class or category that has not been invited for recruitment or expatriated adult Greek citizens, as long as they are younger than 45 years old.

2. The said decision determines all required documents, the recruitment procedures, the obligations of recruited persons, the reasons for provisional or final discharge, as well as any other detail which may be necessary for the application of this article.

Annex II

“Professional Soldiers – Miscellaneous provisions”, as in force upon its amendments by virtue of Law 3036/02 (Official Gazette 171/23-7-02/A)

Article 2 Qualifications of Professional Soldiers

1. Professional soldiers must:
 - (a) Be Greek nationals;
 - (b) Have attained their 18th year of age and not be older than 28 years old in the year of their recruitment with the Armed Forces (article 7);
 - (c) Be at least 1.60m tall (for men) and 1.55m tall (for women);
 - (d) Be educated, depending on their specialty upon a decision of the Minister of National Defense, holding at least a junior high school graduation certificate;
 - (e) Be 1/1 or 1/2 competent, according to the provisions governing the assessment of recruits' physical ability;
 - (f) Not have been convicted with a *res judicata* ruling for any felony or not have been imposed with a sentence for having committed larceny, fraud, misappropriation, extortion, forgery, false statement, perjury, untrue un oathed deposition, bribery, harassment, embezzlement, malicious prosecution, defamatory calumny, breach of duty, evasion of military service, desertion, any crime against sexual freedom or financial exploitation of sexual life or breach of law on drugs, smuggling, arms, munitions and gambling;
 - (g) Not have been indicted irrevocably for any felony or any one of the misdemeanors mentioned in the previous paragraph, even if such offence has been barred;
 - (h) Not have been deprived of their civil rights with an irrevocable judgment;
 - (i) Those who have fulfilled their military obligations, must not have been forfeited or demoted (article 7);
 - (j) Those who serve already, must have a positive proposal for recruitment.

Annex III

Treatment of unaccompanied asylum-seeking children

1. Presidential decree 220/2007 (article 19), in conjunction with presidential decree 90/2008 (article 12), determine the status applicable to the treatment of unaccompanied children.

Specifically:

(a) In case of unaccompanied children, competent authorities immediately take appropriate measures to ensure their necessary representation. To this end, competent authorities notify the Public Prosecutor for Children and, if there is no such prosecutor, the competent Public Prosecutor at the First Instance Court, who acts as temporary guardian and takes appropriate action to appoint a guardian for the child;

(b) When applications are made by unaccompanied children, the authorities responsible for receiving and reviewing the application for asylum take the following steps:

- They ensure that the accommodation needs of the child are met by putting them up with adult relatives, foster families, Hospitality Centres with special infrastructure for children or other appropriate accommodation for children and that the accommodation of the child protects him/her from the risk of trafficking or exploitation, while changes in the accommodation of unaccompanied children must be kept at a minimum
- They ensure that siblings stay together, taking into account the age, degree of maturity and overall interests of each child
- They try to locate their family members as soon as possible

If there are risks of threat to the life or integrity of the child or his/her close relatives, especially if they reside in the home country, information concerning such persons are collected, processed and transmitted in confidence, so that their safety is not put at risk.

2. In addition, article 30 of presidential decree 96/2008 stipulates, inter alia, that:

The authorities responsible for receiving and accommodating unaccompanied children ensure that they are accommodated:

- With their adult relatives, or
- In a family that will have custody of the child, or
- In special hospitality centres for children, or
- In other appropriate accommodation for children

Finally, it should be noted that, pursuant to applicable provisions, the procedures for reviewing their applications for asylum and residence in our country are governed by the principle of protection of the interests of the child.

In this context, competent authorities also ensure that the staff involved in cases of unaccompanied children has or obtains appropriate training in relation to the needs of children. Such staff is under the duty of confidentiality in relation to the personal information of which they are made aware in or because of the discharge of their duties.

3. Concerning non-national children involved in armed conflicts, the records of the Ministry of Interior do not show any relevant applications for asylum.

Annex IV

Articles 6, 7, 8 & 9 of the Criminal Code establishing extraterritorial jurisdiction for criminal offences

Article 6

Crimes committed by Greek nationals in a foreign country

1. Greek penal laws also apply to an act that is characterized thereby as a felony or a misdemeanor and which was committed by a Greek national in a foreign country, in the event that such act is also punishable pursuant to the laws of the country where it was committed or if such act was committed in a country that has no established constitution.
2. Prosecution is also brought against a foreign national who, while committing a punishable act, held the Greek nationality. It is also brought against a person who obtained the Greek nationality after having committed such action.
3. In case of misdemeanors, in order for the provisions of paragraph 1 and 2 to apply, the victim has to file a complaint or the country, where such misdemeanors were committed, has to file a respective petition.
4. Minor offences committed in a foreign country are punished only in cases specifically defined by the law.

Article 7

Crimes committed by foreign nationals in a foreign country

1. Greek penal also apply to a foreign national for an act committed in a foreign country and characterized by such laws as a felony or a misdemeanor, in the event that such act was committed against a Greek citizen and it is punishable under the laws of the country where it was committed, or if such act was committed in a country that has no established constitution.
2. The provisions of paragraphs 3 and 4 of the previous article apply also in this case.

Article 8

Crimes committed in a foreign country, always punished under Greek laws

Greek penal laws apply to Greek and foreign nationals alike, irrespective of the applicable laws of the country where the act was committed, for the following crimes:

- (a) High treason, treason against the Greek State and terrorists acts (art. 187A);
- (b) Crimes concerning military service and the obligation for conscription (special part, Section H);
- (c) Punishable acts, perpetrated by persons in their capacity as civil servants of the Greek State;
- (d) Acts committed against a Greek civil servant in the exercise of his/ her official duties or connected to his/her service;

- (e) Perjury in the context of proceedings pending before Greek authorities;
- (f) Piracy;
- (g) Crimes against the currency (special part, section I);
- (h) Slave trade, trafficking in human beings, forced prostitution or sexual abuse of minors for profit, child sex tourism or child pornography;
- (i) Illegal trafficking in narcotic drugs;
- (j) Illegal circulation of and trafficking in obscene publications;
- (k) Any other crime to which Greek penal laws apply, by virtue of special provisions or international conventions, signed and ratified by the Greek State.

Article 9

No prosecution for crimes committed in a foreign country

1. Penal prosecution for an act committed in a foreign country is excluded:
 - (a) In the event that the offender has been judged for such offence in a foreign country and was acquitted or, in the event that he/she had been convicted and he/she has served the whole sentence imposed;
 - (b) In the event that, pursuant to foreign legislation, such act has been barred by the statute of limitations or pardon has been granted;
 - (c) In the event that, according to foreign legislation, a complaint is necessary in order to prosecute such act, and such a complaint has never been filed or it has been revoked.
 2. These provisions are not applicable to the acts stipulated in article 8.
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