



Alternative report to the Committee on the Rights of the Child

On the implementation of the Optional Protocol to the Convention on the Rights
of the Child on the involvement of children in armed conflict

Benin

2018

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1. Summary of questions and recommendations

Child Soldiers International submits the following report in advance of the Committee on the Rights of the Child's ('the Committee') consideration of the initial report submitted by Benin under article 8(1) of the Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict (OPAC), due in 2007. The report focuses on military schools; legislation criminalising the recruitment and use of children in hostilities; and international standards that the State party has not endorsed.

Recommendations

The State party should:

- Enact legislation to expressly prohibit the recruitment of children by state armed forces and non-state armed groups and their use in hostilities;
- Amend Article 212 of Act No. 2015-08 to criminalise all forms of recruitment of children by state armed forces and non-state armed groups, and their use in hostilities, and ensure that perpetrators are prosecuted;
- Ensure relevant legislation permits national judicial authorities to undertake criminal investigations and prosecutions of individuals suspected of recruiting and/or using children in hostilities regardless of where the crime was committed or the nationality of the accused or victim.
- Endorse and implement the Safe Schools Declaration;¹
- Endorse and implement the Vancouver Principles on Peacekeeping and the Prevention of the Recruitment and Use of Child Soldiers.²

Questions

- Is the earliest date which an individual can be conscripted their eighteenth birthday or the year in which they turn 18?
- Are children enrolled in military schools categorised as military personnel under military legislation or other statute and/or can they be mobilised in case of national emergency?
- Are children in military schools subject to military law?
- Do children in military schools have a legal liability to enter military service upon graduation?
- Are children in military schools permitted to leave the institution at will, and/or is their initial enrolment at the institution conducted on a purely voluntary basis?
- Does the military school curriculum comply with the detailed requirements for children's education laid out in the Committee's General Comment No.1 on 'The aims of education' and articles 28 and 29 of the Convention on the Rights of the Child, including education on human rights and humanitarian principles, and the prohibition of degrading punishments?
- What proportion of the school curriculum is dedicated to military training and activities?
- Do students in military schools who are under the age of 18 years receive weapons training?
- Has the State party expressly prohibited in legislation the sale or transfer of arms and other forms of military assistance to states when the final destination is a country in which children

¹ Safe Schools Declaration, 2015, available at:

http://www.protectingeducation.org/sites/default/files/documents/safe_schools_declaration-final.pdf

² Vancouver Principles on Peacekeeping and the Prevention of the Recruitment and Use of Child Soldiers, 2017, available at: <https://pm.gc.ca/eng/news/2017/11/15/vancouver-principles-peacekeeping-and-prevention-recruitment-and-use-child-soldiers>

are known to be, or may potentially be, unlawfully recruited or used in hostilities by armed forces or armed groups, including a prohibition on arms transfers to states that are known to supply arms to armed groups known to recruit and use child soldiers, or lack adequate control mechanisms to ensure that arms will not be diverted, via illicit trade or other means, to such groups.

2. Prevention

Compulsory recruitment

The State party's binding declaration submitted on its ratification of OPAC states that:

"The Government of the Republic of Benin declares that the minimum age at which it permits the recruitment of volunteers into the armed forces and the national gendarmerie is eighteen (18) years (cf. article 13 of Act No. 63-5 of 30 May 1963 on recruitment in the Republic of Benin)."

It is not clear whether for the purposes of military recruitment the earliest date at which an individual can be conscripted is their eighteenth birthday or the year in which they turn 18.

Military schools

A report from 2000 suggests that children in military schools in Benin "are not members of the armed forces and they are encouraged, but not forced, to pursue a military career after graduation, which usually occurs when they are about 19 or 20 years of age".³ However, one unofficial source from 2016 suggests that students at the Prytanée Militaire de Bembèrèkè are treated as soldiers in training, though with some flexibility in terms of age.⁴ The source also suggests that military-style discipline is rigorously adhered to, with serious faults liable to result in students being detained in a disciplinary facility.⁵

Concerning the two military schools operated by the armed forces in Benin (the military secondary school for girls in Natitingou and the Prytanée Militaire de Bembèrèkè):⁶

Questions

- Is the earliest date which an individual can be conscripted their eighteenth birthday or the year in which they turn 18?
- Are children enrolled in military schools categorised as military personnel under military legislation or other statute and/or can they be mobilised in case of national emergency?
- Are children in military schools subject to military law?

³ Coalition to Stop the Use of Child Soldiers, "The Use of Child as Soldiers in Africa: A country analysis of child recruitment and participation in armed conflict", 15 August 2000:

<https://reliefweb.int/sites/reliefweb.int/files/resources/C157333FCA91F573C1256C130033E448-chilsold.htm>

⁴ Visages du Bénin, "Tout ce qu'on ne vous a jamais dit sur le Prytanée Militaire de Bembèrèkè", 7 April 2016:

<https://visages-du-benin.com/2016/04/07/tout-ce-quon-ne-vous-a-jamais-dit-sur-le-prytanee-militaire-de-bembereke/>

⁵ Visages du Bénin, "Tout ce qu'on ne vous a jamais dit sur le Prytanée Militaire de Bembèrèkè", 7 April 2016:

<https://visages-du-benin.com/2016/04/07/tout-ce-quon-ne-vous-a-jamais-dit-sur-le-prytanee-militaire-de-bembereke/>

⁶ Report submitted by Benin under article 8(1) of the Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict, due in 2007, UN Doc. CRC/C/OPAC/BEN/1, 24 November 2017 (report dated 31 May 2016), page 8:

http://tbinternet.ohchr.org/_layouts/treatybodyexternal/Download.aspx?symbolno=CRC%2fC%2fOPAC%2fBEN%2f1&Lang=en

- Do children in military schools have a legal liability to enter military service upon graduation?
- Are children in military schools permitted to leave the institution at will, and/or is their initial enrolment at the institution conducted on a purely voluntary basis?
- Does the school curriculum comply with the detailed requirements for children's education laid out in General Comment No.1 on 'The aims of education', and CRC articles 28 and 29, including education on human rights and humanitarian principles, and the prohibition of degrading punishments?
- What proportion of the school curriculum is dedicated to military training and activities?
- Do students in military schools who are under the age of 18 years receive weapons training?
- Has the State party established in law specific prohibitions to prevent the sale or transfer of arms and other forms of military assistance to states when the final destination is a country in which children are known to be, or may potentially be, unlawfully recruited or used in hostilities?

3. Prohibition and related matters

Child Soldiers International notes that the Beninese Children's Code (Act No. 2015-08) adopted on 26 January 2015 prohibits the involvement of children in armed conflicts and 'forced or compulsory recruitment of children in armed conflict'.⁷ However, it is not clear from the State party report whether all forms of recruitment of children – both voluntary and forced, by state armed forces or non-stated armed groups, have been criminalised. It is also not specified whether the use of children to participate in hostilities is also specifically criminalised.

Recommendations

The State party should:

- Enact legislation to expressly prohibit the recruitment of children by state armed forces and non-state armed groups and their use in hostilities;
- Amend Article 212 of Act No. 2015-08 to criminalise all forms of recruitment of children by state armed forces and non-state armed groups, and their use in hostilities, and ensure that perpetrators are prosecuted;
- Ensure relevant legislation permits national judicial authorities to undertake criminal investigations and prosecutions of individuals suspected of recruiting and/or using children in hostilities regardless of where the crime was committed or the nationality of the accused or victim.

4. International assistance and cooperation

The State party has ratified the Arms Trade Treaty and the Rome Statute of the International Criminal Court, but no further information on their implementation is included in the State party's report.

Recommendations

The State party should:

- Endorse and implement the Safe Schools Declaration;

⁷ Report submitted by Benin under article 8(1) of the Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict, due in 2007, UN Doc. CRC/C/OPAC/BEN/1, 24 November 2017 (report dated 31 May 2016), para60 - 61

http://tbinternet.ohchr.org/_layouts/treatybodyexternal/Download.aspx?symbolno=CRC%2fC%2fOPAC%2fBEN%2f1&Lang=en

- Endorse and implement the Vancouver Principles on Peacekeeping and the Prevention of the Recruitment and Use of Child Soldiers.

Questions

- Has the State party expressly prohibited in legislation the sale or transfer of arms and other forms of military assistance to states when the final destination is a country in which children are known to be, or may potentially be, unlawfully recruited or used in hostilities by armed forces or armed groups, including a prohibition on arms transfers to states that are known to supply arms to armed groups known to recruit and use child soldiers, or lack adequate control mechanisms to ensure that arms will not be diverted, via illicit trade or other means, to such groups.