



# 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 2007

**Armenia\***

[4 April 2012]

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\* In accordance with the information transmitted to States parties regarding the processing of their reports, the present document was not edited.

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## **I. Introduction**

1. The Republic of Armenia has ratified the Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict on 21 March 2005. The mentioned Optional Protocol entered into force on 30 October 2005.
2. The Report of the Republic of Armenia has been prepared in accordance with Article 8(1) of the Optional Protocol. The Report was prepared by an interagency working group comprised of representatives from the interested ministries and agencies.
3. As in case of other international treaties, the two Optional Protocols to the Convention on the Rights of the Child as well, after ratification or approval, become a constituent part of the legal framework of the Republic of Armenia. In accordance with the same Article of the Constitution, "If ratified international treaties define norms other than those provided for by laws, such norms shall apply".
4. By ratifying the Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict (hereinafter referred to as "the Optional Protocol") the Republic of Armenia has reinstated its commitment in undertaking proper measures with respect to ensuring and protection of the rights of the child in this sphere.
5. It follows from the summary analysis of the norms of the Optional Protocol that the participating states are obliged to pay a special attention on the exclusion of compulsory conscription of persons below the age of eighteen, guaranteeing the principles of voluntary recruitment of persons under that age into the armed forces and prevention from taking part in hostilities. Within the framework of these commitments the following ensues from the review of the legislation of the Republic of Armenia:

## **II. Constitutional and legal bases for conscription**

6. The Constitution of the Republic of Armenia states that every citizen shall be obliged to take part, as prescribed by law, in the defence of the Republic of Armenia. The armed forces of the Republic of Armenia shall ensure the security, defence, and territorial integrity of the Republic of Armenia as well as the inviolability of its borders. In accordance with the Law of the Republic of Armenia "On defence", armed forces shall be created and conscription of citizens shall be established for the purpose of defence.
7. The Law of the Republic of Armenia "On Conscription" states that conscription is the constitutional duty of citizens to take part in the defence of the Republic of Armenia. Conscripts are considered to be the male citizens of pre-military, military age and those registered in the reserve, as well as female citizens with military profession or having completed the military service. Conscription of citizens comprises military registration, preparation to the military service, military call-up, military service and registration in the reserve.
8. The so-called active phase of conscription is the military service. Military service consists of the fixed-term military service and the reserve military service. The fixed-term military service in its turn comprises the mandatory and contractual military service. The mandatory military service means the military service of private corps and commissioned

staff called-up to the armed forces and other troops and the military service of cadets studying in military-educational institutions.<sup>1</sup>

9. Contractual military service means the voluntary military service of private corps, non-commissioned and commissioned staff (including those having graduated from military-educational institutions) and women in the armed forces and other troops. Citizens recruited into contractual military service enter into a written contract with the state authorised body.

10. It follows from the above mentioned that the defence of the Republic of Armenia is secured by the armed forces of the Republic of Armenia<sup>2</sup> which are staffed by persons undergoing mandatory military service and contractual military service. In other words there is a mixed type of procedure operating in the Republic of Armenia for the recruitment into the armed forces.

### III. Recruitment into the armed forces

11. According to Article 11 of the Law of the Republic of Armenia “On Conscription” male draftees aged between 18 and 27 and reserve officers of the first group, recognised fitting for military service in peace time according to their state of health, are called up to military service.

12. This procedure is preceded by the military registration stage. Military registration is the state system for registration of pre-draftees (16-18 years of age), draftees (18-27 years of age) and citizens in the reserve and for the analysis of the call-up, military training and mobilization resources of the Republic. The procedure for the military registration is defined by the Government of the Republic of Armenia. Military registration of draftees is carried out by the commissariats of the place of their residence. Military registration of pre-draftees is considered as listing. Male citizens having attained the age of sixteen are subject to listing. Listing is performed by the commissions of military commissariats within the months of January-May of the current year.

13. Thus, the above-mentioned means that within the framework of the obligations assumed by the Optional Protocol in question, citizens having attained the age of eighteen are subject to mandatory military service in the Republic of Armenia and their registration is carried out only after becoming sixteen years old. Consequently, persons under the age of eighteen are not subject to mandatory military service.

14. In addition, according to Article 10 of the Law of the Republic of Armenia “On Conscription” and Article 4 of the Republic of Armenia “On undergoing military service”, prior to the attainment of the age of eighteen citizens may participate in the admission to the military-educational institutions on a voluntary basis. In case of admission a contract is signed with them on studying in the military-educational institution and undergoing post-educational contractual military service. In case of signing the mentioned contract prior to his/her attainment to the age of eighteen, his/her parents also give their consent to the

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<sup>1</sup> The mandatory military service may be substituted by an alternative service, the procedure and conditions for completing it are prescribed by law.

<sup>2</sup> According to the Law of the Republic of Armenia “On defence” during a war or in time of martial law other troops are involved in the defence activities by passing under the operating subordination of the commandment of armed forces. Other troops are considered the police troops, border troops and special subdivisions of the national service.

signing into the contract. According to the legislation of the Republic of Armenia, the age of a citizen is identified by the birth certificate and passport.

15. The procedure for admission to military-educational institutions is defined by the Government of the Republic of Armenia. Citizens undergoing or having undergone fixed-term military service may be admitted to military-educational institutions before attaining the age of 23.

16. Citizens admitted to military-educational institutions are considered military servants of mandatory military service, have the rights and privileges prescribed by the legislation and responsibilities, with the exception of cases provided for by law. Persons removed and dismissed from that institution compensate the costs relating to their education and are called up (sent) to mandatory military service under general terms.

17. The first contract with the military servants studying in military-educational institutions is signed after completion of the first year but no later than the second year completion. In case of refusal to sign the contract the mentioned military servant is subject to dismissal from the military-educational institution.

18. Although the legislation does not provide for direct prohibition for the age of persons applying to military-educational higher institutions, however, the analysis of the legal acts relating to general education in the Republic of Armenia proves that, in practice, only citizens having attained or attaining the age of eighteen during the given year may apply and be admitted to military-educational institutions. Thus, according to Article 16 of the Law of the Republic of Armenia “On general education”, only children who have reached or will reach the age of six up to December 31 of the given calendar year inclusive, shall be admitted to the first year of the educational institution. Admission of children under 6 to the educational institution shall be prohibited. According to Article 7 of the same Law, standard term for secondary education shall be 12 years under a three-cycle system: the 1st cycle — four years, grades 1-4; the 2nd cycle — five years, grades 5-9; the 3rd cycle — 3 years, grades 10-12. According to Article 14 of the Law of the Republic of Armenia “On higher and postgraduate professional education”, admission to higher educational institutions for Bachelor's degree shall be carried out upon the applications of persons having at least secondary (full) general education under the terms prescribed by the Government of the Republic of Armenia.

19. From the above mentioned it can be concluded, that a person having attained or attaining the age of six, entering into an educational institution for receiving secondary education, will complete it only after 12 years, which is the same as in the year of attaining the age of eighteen. Consequently, a person may not be admitted to a military-educational institution at an earlier age, even on voluntary basis. Moreover, it should be noted that cadets not having attained the age of eighteen do not take part in military operations.

#### **IV. Mechanisms for the protection of the rights of the child**

20. Legal mechanisms have been provided by the legislation of the Republic of Armenia for the protection of the rights of the child. In particular, Chapter 20 of the Criminal Code of the Republic of Armenia completely relates to the crimes against the interests of family and the child.

21. Measures have also been undertaken to incorporate the norms of international humanitarian law into the legislation of the Republic of Armenia. Within the framework of the commitments assumed by the Optional Protocol it is worth mentioning Chapter 33 of the Criminal Code that covers crimes against peace and safety of humans. This Chapter

gives a comprehensive definition for grave violations of the norms of international humanitarian law in time of armed conflicts and the liability for them. Or, for instance, according to the Article on mercenaries, recruitment of an obviously minor as a mercenary, his/her training, financing or other material support, as well as using him/her in armed conflicts or military operations, is considered an aggravating circumstance for which a more severe punishment is prescribed.<sup>3</sup>

22. Issues relating to the rights of the child are more comprehensively regulated by the RA Law “On the Rights of the Child”, which entered into force still on 27 June 1996. According to Article 1 of the mentioned Law, child is a person under the age of 18, except for the cases when he/she acquires legal capacity or is declared as having such earlier, under the terms prescribed by law.

23. The Law regulates also the issues relating to the participation of children in military operations. According to Article 29, it is prohibited to engage a child in military operations, armed conflicts, as well as advocacy of war and violence among children, creation of militarised child associations. Participation in military operations of a child below the age of 15 shall be prohibited. During armed conflicts the state and its relevant bodies shall ensure special protection of the child.

24. Although the Law, following the minimum requirements of norms of international law, prescribes a formal prohibition for the participation (on voluntary basis) in military operations only for children below the age of fifteen, however, the analysis of the above mentioned legal acts proves that, according to the principles and procedure for the recruitment into the armed forces of the Republic of Armenia, only citizens having reached minimum the age of eighteen may be recruited into the armed forces on a voluntary basis. With regard to Article 4 of the Optional Protocol relating to the recruitment of persons under 18 by “armed groups other than state armed forces”, the RA Law “On defence” prescribes that creation of other armed groups in the Republic of Armenia is prohibited. Moreover, criminal liability is provided for the creation of such armed groups.

### **Ensuring fulfilment and prevention**

25. Respective measures are being undertaken in the Republic of Armenia with respect to the protection of the rights of the child in the society. The Human Rights Defender devotes a special part in his annual reports to the issues of the rights of children and is empowered with clear practical powers for the protection of those rights. With support of the OSCE Office in Yerevan the “Handbook on Human Rights and Fundamental Freedoms of Armed Forces Personnel” prepared by joint efforts of ODIHR and DCAF Geneva Centre has been translated into Armenian, which constitutes an educational material within the framework of a special course in the military-educational institutions and military subdivisions of the Republic of Armenia. In particular, Section V, Chapter 15 of this Handbook, titled “Children associated with armed forces”, comprehensively addresses the issues of children enlisted into the armed forces on a voluntary basis and children of armed forces personnel, as well as the problems of children participating in preliminary military trainings. Such theoretical sources give an opportunity to study the international best

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<sup>3</sup> According to Article 395 of the Criminal Code of the Republic of Armenia, mercenary is a specially recruited person acting for the purpose of receiving material compensation, who is not a citizen of a State party to the armed conflict or participating in the military operations, does not permanently reside in its territory, is not a member armed forces of a State involved in the conflict, and is not sent by another State to perform official duties in the armed forces.

practices, compare local and foreign measures and methods for the protection of rights thereby serving as a basis for further improvements in the legislation. It should be noted that in the context of defence reforms in the Republic of Armenia issues of military education and contractual recruitment of armed forces personnel is of high importance . Thus, major attention is paid to the improvement and reform of pre-military training issues. Moreover, all matters relating to the armed forces are handled in their dynamics, therefore reforms are continuous, and measures are being implemented in order to promote legal awareness and adapt the legislation to international standards taking into account the national security issues of the Republic of Armenia.

## **V. Declaration relating to the Optional Protocol**

26. The Republic of Armenia made the following declaration in accordance with Article 3(2) of the Optional Protocol:

According to Article 47 of the Constitution of the Republic of Armenia “Every citizen shall be obliged to take part, as prescribed by law, in the defence of the Republic of Armenia”.

Participation of citizens of the Republic of Armenia in the defence of the Republic of Armenia is carried out in accordance with the Law of the Republic of Armenia “On conscription” adopted by the National Assembly of the Republic of Armenia on 16 September 1998, and by the RA Law “On undergoing military service” adopted by the National Assembly of the Republic of Armenia on 3 July 2002, in which parts 1 and 2 of Article 4 state that: “Military service comprises fixed-term military service and reserve military service. Fixed-term military service comprises mandatory and contractual military service. The mandatory military service is the military service of private corps and commissioned staff called-up to the armed forces and other troops and the military service of cadets studying in military-educational institutions”.

According to Article 11(1) of the Law of the Republic of Armenia “On Conscription”, “Male draftees aged between 18 and 27 and reserve officers of the first group, with consideration of their state of health recognised fitting for military service in peace time are called up to military service”.

On the basis of the above mentioned laws only citizens having reached the age of eighteen are subject to mandatory military call-up into the armed forces of the Republic of Armenia and the prohibition of engagement of citizens under 18 in the mandatory or contractual (voluntary) military service is guaranteed in the Republic of Armenia.