



**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 (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 2004

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[7 January 2004]

* This report was published without being edited.

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I. INTRODUCTION

1. This document contains the first report of the State of El Salvador in compliance with its obligations 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 (hereinafter referred to as “the Protocol”). It was drafted by the Ministry of Foreign Affairs in cooperation with the Ministry of National Defence.
2. The report was prepared following the guidelines contained in Chapter VIII of document HRI/GEN/2/Rev.2, of 7 May 2004, entitled “Compilation of guidelines on the form and content of reports to be submitted by States parties to the international human rights bodies”.
3. El Salvador acceded to the Protocol by Executive Decision No. 688 of 19 October 1993. Subsequently it was ratified by Legislative Decree No. 609 of 15 November 2001, published in *Diario Oficial* No. 9238, Volume 353, of 17 December 2001, so that the domestic and international obligations set forth therein are now fully in force for the country.
4. The Government declares that the country is not confronted with any internal armed conflict nor party to an international conflict, and in that respect there is no threat of children participating in hostilities. For El Salvador it is important to emphasize that point given that the provisions of the Protocol are based on the assumption of the existence of an armed conflict in which the recruitment or use of children may occur.
5. The Government is submitting this document to honour its commitment as a State party to the Protocol and in that connection makes reference to legislation in force, in particular the provisions of the Constitution and the corpus of domestic legislation relating to the inadmissibility of the participation of children in the event of armed conflict.
6. The Government takes this opportunity to express its firm intention to establish a constructive dialogue with international organizations monitoring the implementation of the international obligations assumed under the international human rights instruments to which El Salvador is party.

II. INFORMATION RELATING TO ARTICLES 1-7 OF THE OPTIONAL PROTOCOL

A. Article 1

7. With regard to adoption of feasible measures to ensure that members of the armed forces who have not attained the age of 18 years do not take a direct part in hostilities, the following may be mentioned.
8. Article 215 of the Constitution of the Republic of El Salvador provides that military service is compulsory for all Salvadorans from 18 to 30 years of age. In case of necessity, all Salvadorans fit for military service shall be soldiers.

9. Further, article 2 of the Armed Forces (Military and Reserves Service) Act stipulates that the Act shall apply to all Salvadorans, including those from 18 to 30 years of age, without distinction as to age, social or economic status or religion, and in case of necessity to all Salvadorans fit for military service.

10. It shall also apply to minors between 16 and 18 years of age who volunteer for military service, in accordance with the provisions of the Act.

11. As was stated at the outset, El Salvador is not involved in any armed conflict and therefore the provision in the Protocol requiring the submission of lists of members of the armed forces under 18 years of age who have been taken prisoner does not apply.

B. Article 2

12. Article 6 of the Armed Forces (Military and Reserves Service) Act states that “Salvadorans over 16 years of age may voluntarily submit to the Recruitment and Reserves Department or its subsidiary offices an application to perform military service, and the Department shall accept them according to the needs of the service”.

13. Similarly, article 42 of the Act stipulates that: “Provided the recruitment methods laid down in this Act are applied volunteers may be recruited to make up the strength of the armed forces according to the needs of the service.”

14. On the other hand, the General Staff of the Armed Forces has issued a permanent order “to refrain from accepting minors among newly recruited personnel”, so that the armed forces only recruit volunteers who have attained the age of majority.

15. Through these provisions, the State complies with its obligation to ensure that persons who have not attained the age of 18 years are not compulsorily recruited into the armed forces.

16. El Salvador has raised the minimum age in years for the voluntary recruitment of persons into the armed forces from that specified in article 38, paragraph 3, of the Convention on the Rights of the Child, taking account of the principles contained in that article and recognizing that under the Convention persons under the age of 18 years are entitled to special protection.

17. As for the existence of legal provisions whereby the minimum age for recruitment may be lowered in special circumstances, article 215 of the Constitution provides, as has already been explained, that in a situation of extreme emergency, such as an international war or an invasion, all Salvadorans fit for military service shall be soldiers.

18. Article 11, paragraph 11, of the Armed Forces (Military and Reserves Service) Act provides that within one month of their seventeenth birthday Salvadorans are obliged to report to their local Recruitment and Reserves Centres, or where applicable to their respective branch offices, in order to enrol in the Military Register, notwithstanding that only those persons who have attained 18 years of age may be called up.

C. Article 3

Paragraphs 1 and 2

19. Pursuant to article 3, paragraph 2, of the Protocol, El Salvador deposited a binding declaration that sets forth the minimum age at which it will permit voluntary recruitment into its armed forces and describes the safeguards it has adopted to ensure that such recruitment is not forced or coerced.

20. Thus, El Salvador declared in a communication addressed to the Secretary-General of the United Nations that the minimum age for Salvadorans who wish to enlist voluntarily for military service is 16 years, in accordance with articles 2 and 6 of the Armed Forces (Military and Reserves Service) Act. The safeguards adopted by the Salvadoran authorities concerned to ensure that the military service provided is legally voluntary are as follows:

(a) The 16-year-old minor must submit a written request to the Recruitment and Reserves Office or its subsidiary offices, unequivocally stating a desire to perform military service;

(b) Submission of the original birth certificate or minor's card;

(c) Document certifying knowledge of and consent to the request to perform military service from the minor's parents, guardian or legal representative, all in accordance with the provisions of title II on parental authority, article 206 et seq. of the Family Code;

(d) Acceptance of the request shall be subject to military service needs.

Paragraph 3 (a)

21. Methods of forced recruitment to enlist young persons in the armed forces are not practised in El Salvador.

Paragraph 3 (b)

22. As mentioned above, a document certifying knowledge of and consent to the request to provide military service from the minor's parents, guardian or legal representative is necessary for recruitment.

Paragraph 3 (c)

23. As much information as possible is provided to young persons over the national radio and in greater detail on a one-to-one basis when the person concerned so requests.

Paragraph 3 (d)

24. The Single Identity Document is used as proof of age of volunteers enlisting for military service.

25. It is important to mention that the minimum period of service is 12 months; in addition the armed forces use incentives including:

- Basic education;
- Secondary education;
- Citizens' training (vocational workshops);
- Social welfare (Armed Forces Social Security Institute and Mobile Hospital);
- Military outfit;
- Military career as an officer or non-commissioned officer;
- Possible technical or university courses;
- Participation in peace missions;
- Technical training in the Army, Air Force or Navy.

26. With regard to schools run by the armed forces the following information has been provided.

Disaggregated data on minors attending the General Gerardo Barrios Military School:

- (a) Number of minors: four - one female and three male cadets
- (b) Type of education provided: higher education
- (c) Proportion of academic teaching to military training in the curriculum:
20 military subjects, 30 academic subjects
- (d) Duration of studies: five years divided into 10 semesters
- (e) Academic and military staff employed:
 - 1. Academic staff: 17 teachers with degrees
 - 2. Military staff: 8 senior officers and 15 junior officers
- (f) Teaching facilities:
 - 1. English language laboratory
 - 2. Computing centre
 - 3. Gymnasium
 - 4. Sports complex

5. Sports grounds (basketball, tennis, football, volleyball)
6. Library
7. Classrooms
8. Cadets' canteen
9. Shooting range
10. Obstacle course.

As part of the curriculum approved by the Ministry of Education, first-year students study international law of armed conflicts. Study unit No. 3 deals with human rights in general.

Information on minors under the age of 18 years attending the school:

- (a) Sex: one girl; three boys
- (b) Age: 17 years
- (c) Regions: Mejicanos, Usulután, Chalatenango and Ilopango
- (d) Areas: all four live in inland urban areas of the Republic
- (e) It is important to mention that students are not detained at these schools on any grounds; however, in case of necessity, action is taken in accordance with the provisions of the Constitution.

27. The Regulations governing the Training Centres for Junior Officers of the Armed Forces lay down the rules of conduct that the cadets must observe within and outside the institution, the disciplinary penalties to which they are liable in case of infringements, and the procedures adopted to apply those sanctions. These rules are governed in all respects by the provisions of the Constitution, the Code of Military Justice, the Army Ordinance, the Regulations governing the Organization and Functioning of the Military School, and orders issued by the High Command of the Armed Forces.

28. It is laid down that whosoever by virtue of his or her military rank imposes a penalty must always act with firmness and moderation and with a sense of fairness and impartiality, granting the right of hearing and defence and endeavouring to ensure that the penalty is in proportion to the scope and gravity of the offence, which means taking into account not only the seriousness and nature of the offence but also the usual behaviour and level of military training of the person concerned.

D. Article 4

Paragraph 1

29. The question of recruitment by armed groups that are distinct from the armed forces is not applicable to El Salvador, since the country is not involved in an armed conflict and therefore no armed groups exist.

Paragraph 2

30. This provision does not apply to El Salvador since the country is not facing an internal armed conflict or involved in an international conflict, so that there are no armed groups in the country that are distinct from the national armed forces and therefore recruitment or use of children by such groups does not occur.

E. Article 5

31. El Salvador recognizes that it must apply whatever laws afford greater protection to minors, so that if any domestic or international law offers greater protection to minors than the Protocol under consideration, those provisions must be applied in the best interests of the child.

32. In that connection it may be noted that El Salvador ratified in 2001, as mentioned above, the Optional Protocol to the Convention on the Rights of the Child. It has also ratified the following related international instruments: the Geneva Conventions of 12 August 1949, the Protocol Additional to the Geneva Conventions relating to the Protection of Victims of International Armed Conflicts of 8 June 1977, and the Protocol relating to the Protection of Victims of Non-International Armed Conflicts of 8 June 1977.

F. Article 6

Paragraphs 1 and 2

33. In the case of El Salvador the Protocol is covered by the Armed Forces (Military and Reserves Service) Act of 30 July 1992 and its Regulations.

Paragraph 3

34. This provision is not relevant to El Salvador.

G. Article 7

35. The remaining articles subject to coverage in the report do not apply to El Salvador since, as mentioned earlier, it is not involved in any internal or international armed conflict.
