



**Convention on the
Rights of the Child**

Distr.
GENERAL

CRC/C/OPAC/MDA/1
8 July 2008

Original: ENGLISH

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 2006

MOLDOVA*

[18 April 2008]

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

**INITIAL REPORT OF MOLDOVA ON THE IMPLEMENTATION OF
THE OPTIONAL PROTOCOL TO THE CONVENTION ON THE
RIGHTS OF THE CHILD ON THE INVOLVEMENT OF CHILDREN
IN ARMED CONFLICT**

GENERAL PROVISIONS

1. The Republic of Moldova signed the Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict on 8 February 2002 and ratified it by Law No. 15-XV of 6 February 2004 (Official Journal of the Republic of Moldova, 2004, No. 39-41, art. 216).
2. In this initial report, the Republic of Moldova 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, as required under article 8, paragraph 1, of the Optional Protocol.
3. The recruitment of children is prohibited in the Republic of Moldova by its national legislation.
4. The definition of the child in Moldavian law is identical to that in article 1 of the Convention on the Rights of the Child since, according to article 51 of the Moldavian Family Code No. 1316-XIV of 26 October 2000 (Official Journal of the Republic of Moldova, 2001, No. 47-48, art. 210) and article 1 of Law No. 338-XIII of 15 December 1994 on the Rights of the Child (Official Journal of the Republic of Moldova, 1995, No. 13, art. 127), every person is considered to be a child until the age of 18.
5. The Republic of Moldova's commitment to human rights, democracy and the principles of the rule of law constitutes one of the major objectives of its foreign policy and, for this reason, it has taken all necessary legislative measures in accordance with the provisions of international law concerning the protection of children, including the prohibition of the recruitment of children.
6. The existence of a secessionist regime established at the beginning of the 1990s through unconstitutional means and ways in the eastern territory of the Republic of Moldova - the Transnistrian region with a territory of 4,163 km² and population of 555,000 - generates major difficulties regarding the implementation on all State territory of the Optional Protocol, as well as other international treaties, to which the Republic of Moldova is a party. According to the "conscription law" in the Transnistrian region, only males who have reached the age of 18 are enlisted in the mandatory military service. In this context, Moldavian constitutional authorities are unable to exercise effective control over the Transnistrian region because of the obstacles raised by separatist structures, which have usurped the local authority in this part of the State, and therefore to present any relevant information on observance and implementation of the Optional Protocol in that region. For these reasons, we will present only relevant information on the implementation of the Optional Protocol on the territory effectively controlled by the constitutional authorities of the Republic of Moldova.

Implementation of article 1

7. Pursuant to paragraph 1 of article 57 of the Constitution of the Republic of Moldova of 29 July 1994 (Official Journal of the Republic of Moldova, 1994, No. 1), the defence of the State is the right and duty of each citizen. Pursuant to paragraph 2 of the article, military service is carried out according to the law in the armed forces intended for national defence, protection of borders and maintenance of public order.

8. Measures taken by the Republic of Moldova to ensure that persons who have not reached the age of 18 do not participate in hostilities by prohibiting them from becoming a member of the armed forces are contained in various articles of Law No. 1245-XV of 18 July 2002 on the Preparation of Citizens for Homeland Defence (Official Journal of the Republic of Moldova, 2002, No. 137-138, art. 1054) and Law No. 162-XVI of 22 July 2005 on the Status of Military Personnel (Official Journal of the Republic of Moldova, 2005, No. 129-131, art. 618). Under the provision of national legislation, only citizens of the Republic of Moldova who have attained the age of 18 can be voluntarily accepted into active military service and enlisted in mandatory military service.

9. On the territory of the Republic of Moldova, no hostilities are taking place and enlistment of children under the age of 18 into the national armed forces is prohibited and shall be prosecuted under laws of the Republic of Moldova.

10. In the Republic of Moldova, conscripts who have reached the age of 18 and are enlisted in mandatory military service cannot be deployed to peacekeeping operations abroad, in accordance with article 6, paragraph 2, of Law No. 1156-XIV of 26 July 2000 on the Participation of the Republic of Moldova in International Peacekeeping Operations (Official Journal of the Republic of Moldova, 2000, No. 149-151, art. 1106).

Implementation of article 2

11. The performance of compulsory military service in the Republic of Moldova is regulated by the Law on the Preparation of Citizens for Homeland Defence.

12. The Law on the Preparation of Citizens for Homeland Defence defines, in article 4, military service as a special kind of public service and consists in the performance by citizens of their constitutional duty to prepare for homeland defence exclusively in the armed forces of the Republic of Moldova.

13. Male citizens of the Republic of Moldova, upon reaching 16 years of age, enter in a military evidence at the local territorial military office and are issued a draftee's certificate. Draftees stay in military evidence until they are enlisted in military or civilian (alternative) service or until they are transferred to the reserve of the armed forces.

14. Pursuant to article 12 of the Law on the Preparation of Citizens for Homeland Defence, during military evidence of citizens, the recruitment office:

(a) Organizes and conducts medical examinations, psychological testing and professional selection of citizens to assess their capability for military service and determines the branch, i.e. the service where the conscript is to perform his military service in the armed forces;

(b) Decides whether to include the citizen in the military registry.

15. Medical and psychological tests are conducted pursuant to the regulation on Military-Medical Expertise in the Armed Forces of the Republic of Moldova, approved by Government resolution No. 897 of 23 July 2003 (Official Journal of the Republic of Moldova, 2003, No. 167-169, art. 953).

16. Civil registration offices must submit to local territorial military office lists of conscripts who have changed their names and surnames and, in the event of death of a military conscript, information about this fact within seven days.

Implementation of article 3

17. Pursuant to articles 28 and 33 of the Law on the Preparation of Citizens for Homeland Defence, only citizens of the Republic of Moldova between the ages of 18 to 27 may be conscripted into mandatory military service.

18. In article 1 of the Law of the Republic of Moldova on the Ratification of the Optional Protocol, the Parliament of the Republic of Moldova established that, under the law of the Republic of Moldova, citizens under the age of 18 years may not serve in the armed forces; the minimum age of citizens for enlisting in mandatory military service is 18 years. At the same time, national legislation provides for the possibility of civilian (alternative) service according to Law No. 156-XVI of 6 July 2007 on the Organization of Civilian (Alternative) Service (Official Journal of the Republic of Moldova, 2007, No. 141-145, art. 591).

19. The Republic of Moldova does not permit voluntary recruitment into the armed forces under the age of 18 years. Pursuant to the regulations on the conscription of citizens in mandatory or reduced military service, approved by Government resolution No. 864 of 17 August 2005 (Official Journal of the Republic of Moldova, 2005, No. 113-116, art. 937), enforced safeguards for draftees are in place; to make entries into the registry, local recruitment offices call recruits by an individual call to report personally at the time and place determined through the call. The call shall emphasize that the person called must carry an identification card, birth certificate, diploma or other document enabling the valid identification of the called person with details of the year of birth.

20. The rights and duties, rules of military evidence and the order of performance of military service are explained to the citizens accepted into the military evidence.

21. Pursuant to article 3, paragraph 5, of the Optional Protocol, citizens who have not performed military service can enter the military school from the age of 17 to 23 inclusive (Military Institute of the Armed Forces accountable to the Ministry of Defence is a higher school for officer training for National Army, Border Guards Troops and Carabinieri Troops).

22. To guarantee voluntary enlistment at military school, students who at the moment of matriculation have not turned 18 will sign up for military recruitment only from their eighteenth birthday; only from this moment will they obtain the status of personnel in voluntary military service. Curricula of military schools include training for students in a civilian specialty. Students excluded from a military school for academic debts, misconduct or refusal to continue their studies go to military units to perform mandatory military service for 12 months. Students who at the moment of exclusion from a military school have performed 12 months of military service are transferred to reserve.

23. The duration of military service may be prolonged in the event of war or siege. There is no provision in Moldavian law authorizing the lowering of the age of conscription in exceptional circumstances.

Implementation of article 4

24. There are no armed groups operating distinct from the armed forces on the territory under the control of the constitutional authorities of the Republic of Moldova, so there is no child recruitment on this territory.

25. The recruitment of children under the age of 18 years into the armed forces entails liability under the legislation in force of the Republic of Moldova.

26. By implementing article 4 of the Optional Protocol, the Criminal Code of the Republic of Moldova No. 985-XV of 18 April 2002 (Official Journal of the Republic of Moldova, 2002, No. 128-129, art. 1012) in article 206 establishes criminal liability for the recruitment of children for purpose of their use in hostilities. According to this article, those actions entail criminal liability of 10 to 25 years' imprisonment. The provisions of the Optional Protocol included in article 210 of the Criminal Code provide criminal liability for involving minors in military actions or propagation of war in their environment, which is punishable by 2 to 5 years in prison.

27. With regard to the measures taken by the Republic of Moldova for the implementation of the Optional Protocol, there are no cases of participation in armed conflicts of persons subject to the jurisdiction of the Republic of Moldova under 18 years of age. Since 12 June 2003, when the new Criminal Code was implemented, in the Republic of Moldova no criminal case in connection with these two articles has been initiated.

Implementation of article 5

28. At the national level, the Constitution of the Republic of Moldova and other legislative texts guarantee children's rights in various areas of life. Articles 49 and 50 of the Constitution of the Republic of Moldova contain a number of provisions specifically concerning the protection of children and young people. At the same time, article 4 of the Constitution of the Republic of Moldova establishes that, in the presence of discrepancies between pacts and contracts of fundamental human rights to which the Republic of Moldova is a party and internal laws, the international norms take precedence. This principle creates the most favourable conditions for the implementation of international humanitarian law.

29. The Republic of Moldova is a party to other international instruments regarding the involvement of children in armed conflicts, the special norms of which stipulate the specific situation of children in armed conflict and provide them with additional protection and guarantees: the Geneva Conventions of 12 August 1949 and the additional protocols thereto of 8 June 1977 Relating to the Protection of Victims of International (Protocol I) and Non-International (Protocol II) Armed Conflicts, adhered to by resolution of Parliament No. 1318-XII of 2 March 1993 (Parliament's Journal, 1993, No. 3, art. 62); International Labour Organization Convention No. 182 of 17 June 1999 concerning the Prohibition and Immediate Action for the Elimination of the Worst Forms of Child Labour, ratified by Law of Parliament No. 849-XV of 14 February 2002 (Official Journal of the Republic of Moldova, 2002, No. 33-35, art. 192); and the Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography, ratified by Law of Parliament No. 29-XVI of 22 February 2007 (Official Journal of the Republic of Moldova, 2007, No. 36-38, art. 153).

Implementation of article 6

30. Moldavian legislation complies with the obligations contained in the Optional Protocol as a result of regular and thorough review of the legal arrangements and their compliance with the international legal obligations of the Republic of Moldova.

31. Pursuant to Government resolution No. 259 of 1 April 1999 (Official Journal of the Republic of Moldova, 1999, No. 39-41, art. 273), the implementation of international humanitarian law is coordinated by the national committee on consultation and coordination of commissioning of humanitarian law, which comprises representatives of various ministries and institutions. The committee is a permanent advisory body of the Government. The key task of the committee is to examine the questions concerning the realization of the international legal obligations of the Republic of Moldova flowing from the Geneva Conventions of 12 August 1949 and two Additional Protocols of 8 June 1977, and other treaties in the field of international humanitarian law to which the Republic of Moldova is a party.

32. International humanitarian law is a constituent part of the study programmes organized by the Moldavian armed forces and police, being studied in the Military Institute of the Armed Forces, the Police Academy and the faculties of law of civilian institutions. Every member of the armed forces acquires a basic knowledge of the law of armed conflict, including children's rights, during regular training activities for conscripts, non-commissioned officers, officers and participants in international activities (NATO/PfP, United Nations). Methods of education are education in military schools; seminars; and practical training (for example, exercises and competitions). For this reason, by Minister of Defence Order No. 275 of 5 December 2006 was approved the instruction on the implementation of the rules of the law of armed conflict in the National Army of the Republic of Moldova.

33. Moldavian peacekeeping forces are given special training that reflects the desire of the Republic of Moldova to deploy qualified personnel on peacekeeping missions. The rights and special needs of children in armed conflicts are an integral part of the training programme, which is conducted in the peace-support operation training centre. At the same time, the Ministry of Defence and other relevant institutions of the Republic of Moldova, to fulfil their tasks, cooperate with the Kyiv Regional Delegation of the International Committee of the Red Cross.

Implementation of article 7

34. With a view to the promotion of a policy of the State in the field of protection of the rights of the child and improvement of quality of life of children and their families, by Government resolution No. 727 of 16 June 2003 was approved the National Strategy on Protection of the Child and Family (Official Journal of the Republic of Moldova, 2003, No. 126-131, art. 774), and by Government resolution No. 784 of 9 July 2007 was approved the National Strategy and the Plan of Action on reforming the system of residential type on care of the child for 2007-2012 (Official Journal of the Republic of Moldova, 2007, No. 103-106, art. 823). At the same time, to incorporate the Convention on the Rights of the Child and the realization of the Law on the Rights of the Child, by Government resolution No. 1001 of 30 September 2005 was established the National Commission on Protection of the Rights of the Child (Official Journal of the Republic of Moldova, 2005, No. 132-134, art. 1079).

35. Child protection is also a priority at the national level in the implementation of different programmes in cooperation with UNICEF in Moldova and the National Society of the Red Cross. At the same time, in the Republic of Moldova several non-governmental organizations are active (such as the International Centre “La Strada”, “Salvați copiii” Moldova, the Helsinki Committee for Human Rights in the Republic of Moldova, and the League on Protection of Human Rights in Moldova); they have a scope to implement and monitor the respect of human rights, including child rights, as well as to sensitize, influence and raise public awareness of children’s problems and their needs.
