



**Convention on the
Rights of the Child**

Distr.
GENERAL

CRC/C/OPAC/TUN/1
30 August 2007

ENGLISH
Original: FRENCH

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

TUNISIA

[13 August 2007]

**REPORT BY TUNISIA PURSUANT TO ARTICLE 8 OF THE OPTIONAL
PROTOCOL TO THE CONVENTION ON THE RIGHTS OF THE CHILD
ON THE INVOLVEMENT OF CHILDREN IN ARM ED CONFLICT**

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Introduction

1. The present report was prepared in accordance with 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 Optional Protocol”). It identifies measures taken to implement the provisions of the Optional Protocol. It reflects the increased attention paid to child survival, protection and development and describes the mechanisms that have been established to prevent children’s involvement in armed conflict.
2. An inter-ministerial committee, which included several non-governmental organizations working in the field of children’s rights, was established for the purpose of drafting the present report.

I. GENERAL INFORMATION ON THE IMPLEMENTATION OF THE OPTIONAL PROTOCOL

3. Tunisia ratified the Convention on the Rights of the Child (hereinafter referred to as “the Convention”) by Act No. 1991-92 of 29 November 1991, and acceded to the Optional Protocol on the involvement of children in armed conflict by Act No. 2002-42 of 7 May 2002. The Optional Protocol was published in the *Journal officiel de la République tunisienne* (Decree No. 2003-1814 of 25 August 2003).
4. In addition, and in accordance with article 3, paragraph 2, of the Optional Protocol, Tunisia has made a binding declaration stipulating, that “the minimum age for voluntary recruitment of Tunisian citizens into the armed forces is 18”.
5. Article 32 of the Tunisian Constitution provides that treaties enter into force only after their ratification and provided that they are implemented by the other party. Treaties ratified by the President of the Republic and approved by the Chamber of Deputies have an authority superior to that of the laws.
6. This establishes the supremacy of treaties over domestic legislation, which means that, in the event of conflict between a treaty and domestic legislation, it is the treaty that has superior force of law.
7. Under the Tunisian system, treaties are directly applicable under domestic law, inasmuch as they are applied by the judges and the authorities concerned even in the absence of an enacting law.
8. The Tunisian Government has undertaken to implement the provisions of the Convention and the Optional Protocol, and to harmonize Tunisian legislation with their principles.
9. This harmonization effort, which is supported by genuine political will, accounts for the promulgation of the Child Protection Code, the main objective of which is to strengthen the best interests of the child as a fundamental principle of Tunisian legislation.
10. In order to ensure the effective implementation of the Convention, article 18 of the Child Protection Code, which was promulgated by Act No. 95-92 of 9 November 1995, clearly prohibits “the involvement of children in wars and armed conflicts”.

11. The Code also established several mechanisms to protect children from all forms of ill-treatment, exploitation and organized crime, including inculcating fanaticism or religious or racial hatred in children, or inciting them to commit acts of violence or terrorism.

12. In this regard, the Ministry of Education and Training has undertaken extensive efforts to incorporate the principles contained in the Convention, the optional protocols and domestic legislation into education programmes.

13. Act No. 80-2002 of 23 July 2002, containing the framework law on education and academic teaching, has the following objectives:

(a) To establish relations with pupils that are based on honesty, objectivity and respect for the person of the child and his or her rights (art. 12);

(b) To entrench all the values shared by Tunisians that are based on knowledge, work, tolerance and moderation;

(c) To guarantee the establishment of a society that attaches great importance to its cultural identity, is open to modernity and is inspired by humanist ideals and universal principles of liberty, democracy, social justice and human rights (art. 13).

14. In Tunisia, although it is inconceivable for children to be involved in armed conflict, the educational system enlists the cooperation of the various components of civil society in prevention efforts. It does this through official programmes and messages contained in school textbooks, which help to instil a culture of peace and tolerance, thereby enabling children to reject violence and involvement in any form of armed conflict.

15. These efforts are also carried out through various programmes relating to the school environment, two of which are described below.

A. Programme for strengthening civic behaviour in schools

1. Objectives

16. The aim of this programme, which was launched in November 2003, is to encourage discussion and action on the issue of deviant school behaviour in 12 primary schools, 12 lower secondary schools (collèges) and 15 higher secondary schools (lycées), specifically:

(a) To support and accompany 27 lower and higher secondary schools in their efforts to reduce the incidence of deviant school behaviour;

(b) To support and accompany 12 primary schools in actions to promote civic education;

(c) To identify the steps to be taken (10 lower and higher secondary schools);

(d) To support and accompany educational projects (20 primary and lower secondary schools).

17. Beginning in October 2004, the programme's activities extended to lower and higher secondary schools, the number of which has risen from 27 to 55 schools situated throughout the country (24 regional education directorates).

2. Criteria used in selecting the 39 participating schools

18. The selection criteria are based on:

(a) Sanctions: The number of expulsions registered by the school during the 2002-2003 school year;

(b) School environment: The location of the school in a socially disadvantaged neighbourhood.

B. "Silence the violence" programme

19. This programme, which was launched on 26 February 2002 in 8 schools, and whose aim is to prevent and combat all forms of violence, was operating in 55 schools at the beginning of the 2004/05 school year in response to needs determined on the basis of studies.

20. Through the various mechanisms that have been established, Tunisia's policy on children has clearly been successful in offering early protection against the harmful effects of educational wastage and guaranteeing each child the necessary conditions for his or her survival, protection and development.

II. PROVISIONS CONTAINED IN THE OPTIONAL PROTOCOL TO THE CONVENTION ON THE RIGHTS OF THE CHILD ON THE INVOLVEMENT OF CHILDREN IN ARMED CONFLICT

Article 1

Legislative, administrative or other measures taken to ensure that members of the armed forces who have not reached the age of 18 do not take a direct part in hostilities

The meaning ascribed in legislation and practice to the notion of "a direct part"

21. The notion of "a direct part" is not firmly established in Tunisian legislation or practice. Under articles 2 and 29 of Act No. 2004-1 of 14 January 2004 concerning national service and article 18 of Act No. 95-92 of 2 November 1995 promulgating the Child Protection Code, Tunisia strictly prohibits service in the armed forces by persons under the age of 18 and the involvement of children in war or armed conflict.

Measures taken to prevent a member of the armed forces, who has not reached the age of 18, from being deployed or maintained in an area where hostilities are taking place

22. Tunisia has not adopted such measures owing to the fact that its legislation and administrative regulations expressly and strictly prohibit the recruitment of young persons under the age of 18 in the armed forces.

Members of the armed forces under 18 years of age who have been taken prisoner

23. This situation does not arise since, in addition to the fact that there are no members of the armed forces under the age of 18, Tunisia enjoys political and social stability and is not involved in any armed conflict.

Article 2

Measures to ensure that persons who have not reached the age of 18 are not compulsorily recruited into the armed forces

24. The process of compulsory recruitment is initiated with the registration of all 18-year-old citizens. Each year, with the help of the sector chiefs, representatives of the various governorates draw up preliminary enumeration lists containing complete information on the civil status of the persons concerned. Thus, the census does not include young people under the age of 18.

25. The lists are then reviewed by regional commissions, and an individual registration card is sent to persons who have reached the age of 18. As soon as they receive the card, they are required to fill in any missing information and indicate any changes in the information provided.

26. Young persons who have registered must, on the date corresponding to the class indicated on the registration card, go to the regional conscription and mobilization centre or to the relevant regional office of the national service in order to complete the necessary formalities relating to national service.

27. These formalities are completed through one of the following procedures:

- Enlistment;
- Exemption;
- Deferral.

28. The document required to verify the age of the person concerned before his or her induction into compulsory military service is the national identity card, which is obligatory for all citizens who have reached the age of 18.

29. Tunisian legislation does not contain special provisions for lowering the age of conscription, even in exceptional circumstances.

30. The obligation to perform military service has never been suspended and remains in force.

Article 3

Paragraph 1

Information on voluntary recruitment

31. In accordance with the binding declaration deposited at the time of Tunisia's accession to the Optional Protocol, and pursuant to Act No. 2004-1 of 14 January 2004 concerning national service (the National Service Act), the minimum age for voluntary recruitment of citizens into the armed forces is 18. Articles 2 and 29 of the Act stipulate the following:

Article 2:

“Every 20-year-old citizen must voluntarily register in person for national service and remains under the obligation to perform such service up to the age of 35.”

“Notwithstanding, citizens may, at their request, carry out national service from the age of 18, with the authorization of their guardian and the approval of the Minister of National Defence.”

Article 29:

“Any citizen who is at least 18 and no more than 23 years old may enrol in a military school under the conditions established by order of the Minister of National Defence.”

“Young people who have not yet reached the age of majority must obtain the consent of their guardian.”¹

32. Tunisian legislation prohibits the voluntary recruitment of persons under 18 into the national armed forces.

33. Voluntary recruits over the age of 18 and under the age of 20 are enlisted without any discrimination whatsoever on the grounds of sex, age, region, place of origin, or social or ethnic origin. Article 6 of the Tunisian Constitution establishes this principle of equality by stipulating that: “all citizens have the same rights and the same duties. They are equal before the law”. Articles 2 and 29 of the National Service Act cited in paragraph 31 above, are fully consistent with this principle.

34. Given that Tunisian legislation and administrative regulations strictly prohibit the recruitment into the armed forces of young people under the age of 18, there is no need to adopt special protection measures for recruits under 18.

¹ *Note:* Under Tunisian legislation, the age of civil majority is 20.

Paragraphs 2 and 4

Information concerning the binding declaration

35. Before adopting the binding declaration provided for in article 3, paragraphs 1 and 2, the Tunisian Government requested the Ministry of National Defence to participate in the drafting of the declaration.

36. These discussions did not take place because Tunisia's legislation was consistent with the principles contained in the Optional Protocol.

Paragraph 3

Minimum guarantees

37. The process of induction into the Tunisian armed forces starts at the age of 18, pursuant to Act No. 2004-1 of 14 January 2004 concerning national service. In this regard, it should be pointed out that, under Tunisian legislation, military service is compulsory for all persons between the ages of 20 and 35 but is voluntary for young people between the ages of 18 and 20.

38. Lawmakers have established safeguards for citizens over the age of 18 and under the age of 20 who wish to enlist in the armed forces. Under Tunisian law, the following is required: a request from the person concerned; authorization from the young person's guardian; and the agreement of the Minister of National Defence.

39. Citizens who have been registered are required to undergo a complete medical examination consistent with international standards in order to determine their fitness for national service.

40. The document required to verify the age of the volunteer is the national identity card.

41. The citizens' relations bureau, which is attached to the Ministry of National Defence, plays an active role in providing advice and guidance to volunteers.

42. The length of national service in Tunisia is 12 months for all recruits, whether recruited on a voluntary or compulsory basis.

43. The methods used by the national armed forces to encourage the enlistment of volunteers include television advertisements, public exhibits, open days, the distribution of pamphlets, as well as advice and guidance provided by the citizens' relations bureau and the regional offices of the national service.

Paragraph 5

Military schools

44. Under the provisions of article 29 of the National Service Act, the minimum age of entry into military schools (academies, schools for non-commissioned officers) that are operated by or under the control of the armed forces is 18; the maximum age is 23.

45. It should be noted that, apart from military schools, there are no schools operated by or under the control of the Tunisian armed forces. The academic programmes of public schools do not include military training.

46. As indicated above, apart from military schools as such, Tunisia does not have schools that are operated by or under the control of the armed forces.

47. It should also be pointed out that military schools are attended by students between the ages of 18 and 23 who are no longer subject to the application of the regulations on the protection of children's rights.

Article 4

Armed groups operating in Tunisian territory

48. With regard to questions concerning armed groups operating in the territory of the State party, it is important to point out that the national army is the only armed force that operates in Tunisian territory. It does so in accordance with the Decree of 30 June 1956 concerning the establishment of the Tunisian army.

Article 5

Provisions of national legislation and international instruments

49. The provisions of national legislation and applicable international instruments in the area of international humanitarian law that are most conducive to the realization of children's rights in Tunisia are the following:

- The four Geneva Conventions of 12 August 1949, which were ratified by Tunisia on 4 May 1957, and the two Protocols Additional to the Geneva Conventions of 12 August 1949, and relating to the Protection of Victims of International Armed Conflicts (Protocol I) and to the Protection of Victims of Non-International Armed Conflicts (Protocol II), of 8 June 1977, signed by Tunisia on 2 December 1977 and ratified by Act No. 79-21 of 7 May 1979;
- The Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, which was ratified by Act No. 88-79 of 11 July 1988;
- The Convention against Discrimination in Education, which was ratified by Act No. 62-51 of 23 November 1962;
- International Labour Organization Convention (ILO) No. 138 concerning Minimum Age for Admission to Employment, which was ratified by Act No. 95-62 of 10 July 1995;
- ILO Convention No. 182 concerning the Prohibition and Immediate Action for the Elimination of the Worst Forms of Child Labour, which was ratified by Act No. 2000-1 of 24 January 2000;

- The Geneva Convention relative to the Treatment of Prisoners of War of 12 August 1949, which entered into force on 4 November 1957;
- The Convention on the Rights of the Child, which was ratified by Act No. 91-29 of 29 November 1991;
- The optional protocols to the Convention on the Rights of the Child on the involvement of children in armed conflict and on the sale of children, child prostitution and child pornography, which were ratified by Act No. 2002-42 of 7 May 2002.

50. With regard to national legislation, the Child Protection Code, which was promulgated by Act No. 95-92 of 9 November 1995, defines a child as “any person under the age of 18 and who has not yet reached the age of majority by virtue of special provisions”.

51. Several protection mechanisms, including the family judge, the juvenile judge and child protection officers, have also been established.

52. Article 2 of the Child Protection Code describes the scope of this protection by specifying that: “This Code guarantees the child the right to benefit from various preventive measures of a social, educational or medical nature and from other provisions and procedures intended to protect the child against all forms of violence, injury, physical or mental harm, sexual abuse, neglect, or negligence that might lead to ill-treatment or exploitation.”

Article 6

Paragraphs 1 and 2

Measures adopted to ensure the effective implementation and enforcement of the provisions of the Optional Protocol

53. Tunisian lawmakers have not undertaken a review of national legislation because the National Service Act guarantees the same principles as those set forth in the Optional Protocol.

54. Tunisia acceded to the Optional Protocol by Act No. 2002-42 of 7 May 2002.

55. Moreover, article 32 of the Tunisian Constitution stipulates that “treaties ratified by the President of the Republic and approved by the Chamber of Deputies have an authority superior to that of the laws”.

56. With respect to the Ministry of National Defence, the services responsible for overseeing the application of the provisions of the Optional Protocol are: the regional conscription and mobilization centres, the regional offices of the national service and the Directorate for Staff and Training.

57. The independence of the Tunisian judiciary, as a constitutional principle, ensures the proper application of the provisions of the Optional Protocol.

58. The Ministry of National Defence periodically organizes days to promote awareness of, and hold seminars on, international humanitarian law for staff participating in peacekeeping missions.

59. Since the ratification of the Convention on the Rights of the Child, the Tunisian Government has made considerable efforts to support and encourage policies and initiatives aimed at spreading a culture of children's rights.

60. This has been reflected in:

- The promulgation of the Child Protection Code;
- The introduction of a presidential award for children's rights;
- The establishment of a monitoring centre for information, training, documentation and studies relating to the protection of children's rights, one of the main tasks of which is the dissemination of a culture of children's rights;
- The establishment of the Higher Council for Children, which is responsible for monitoring the situation of children in Tunisia;
- Awareness-raising and training at the sectoral level, which take account of the specificity of each participant;
- Holding of awareness-raising days and training courses in international humanitarian law, which has become routine within the Ministry of National Defence.

61. This ensures the dissemination of the Protocol among the persons responsible for military recruitment.

Paragraph 3

Measures adopted concerning disarmament and demobilization

62. These questions are not applicable to Tunisia, since its legislation prohibits the recruitment of persons of either sex who are under the age of 18.

Article 7

Cooperation in the implementation of the Optional Protocol

63. The commitments and the policies undertaken by Tunisia, at both the national and international levels, as well as its legal system, are perfectly consistent with the international standards that it has ratified. This includes the Optional Protocol which, given its incorporation into domestic legislation pursuant to Act No. 2002-42 of 7 May 2002, takes precedence over the law, in accordance with article 32 of the Constitution.

64. It follows from this that Tunisia's cooperation with its international partners in matters relating to children's rights, in particular, the Office of the United Nations Children's Fund (UNICEF) in Tunisia, extends to the implementation of the Optional Protocol and to its broad dissemination, even though the question of the involvement of children in armed conflict does not arise.
