



Alternative report to the Committee on the Rights of the Child

On the implementation of the Convention on the Rights of the Child

Belgium

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Child Soldiers International

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1. Introduction

Child Soldiers International submits the following report in advance of the Committee on the Rights of the Child's ('the Committee') consideration of the combined fifth and sixth reports of Belgium.¹ The report focuses on the minimum age of enlistment to state armed forces.

Special protection measures: Optional Protocol on the involvement of children in armed conflict (OPAC)

The state party's report notes the modification of national legislation in 2013, to suspend the military status of any recruit under the age of 18 during times of war and, in times of peace, preventing such recruits from participating in military operations which might endanger them.²

OPAC Article 3.2 requires the state party to submit upon ratification a binding declaration which sets forth the minimum age at which it will permit voluntary recruitment into its national armed forces. Notwithstanding the fact that Article 3.1 permits states to set the minimum voluntary recruitment age as low as 16 years, it is the minimum age given by the state party in its binding declaration which becomes the applicable, binding minimum age for that state.

The binding declaration submitted by Belgium upon ratification of OPAC states that "the minimum age for voluntary recruitment into the Belgian armed forces is not lower than 18 years." However, the Act of 28 February 2007 on the Status of Armed Forces Personnel and Candidates³ allows children below the age of 18 to be admitted into the armed forces for training, and into military schools where they have military status, provided they have completed compulsory education. This would appear to be a violation of Belgium's binding declaration, and hence its obligations under OPAC.

According to information received by Child Soldiers International, the number of children admitted into the Belgian armed forces annually is small (8 out of 425 new recruits in 2017, or 1.88 per cent).⁴ Though recruits under 18 cannot participate in military operations, they are classified as members of the armed forces and subject to military law. They may request termination of their engagement within the first six months of service in the same way as adult recruits,⁵ but this does not appear to constitute an unrestricted and ongoing right to leave up to the age of 18. For example, for a candidate aged under 17 years and six months on the day of enlistment, the initial six-month period in which s/he may request termination will expire before the recruit's 18th birthday. As a result, a recruit who is still below the age of 18, but over 17 years and six months, may

¹ Fifth and sixth reports of Belgium on the implementation of the Convention on the Rights of the Child, UN Doc. CRC/BEL/5-6, 20 July 2017:

http://tbinternet.ohchr.org/_layouts/treatybodyexternal/Download.aspx?symbolno=CRC%2fBEL%2f5-6&Lang=en

² Op Cit, UN Doc. CRC/BEL/5-6, section VIII:

http://tbinternet.ohchr.org/_layouts/treatybodyexternal/Download.aspx?symbolno=CRC%2fBEL%2f5-6&Lang=en

³ Article 7, Act of 28 February 2007 (Act of 31 July 2013) on the status of the military and candidate military of the regular serviceman of the Armed Forces:

<http://www.ejustice.just.fgov.be/eli/loi/2007/02/28/2007007077/justel>

⁴ Letter to Child Soldiers International from the Belgian Ministry of Defence and Civil Service dated 24 October 2017.

⁵ Article 14, Royal Decree of 13 November 1991 relating to the engagement and reengagement of the candidate military of the regular serviceman:

<http://www.ejustice.just.fgov.be/eli/arrete/1991/11/13/1991007444/justel>

be compelled to stay in the armed forces against their will. This would undermine the requirement for all recruitment under the age of 18 to be “genuinely voluntary” as per OPAC Article 3.3.

Questions

- Can recruits aged under 18 be enlisted directly into the armed forces, or are they admitted via the Royal Military Academy or the Royal School for Non-Commissioned Officers?
- What measures are in place to ensure the welfare of child recruits in the armed forces?
- Does national child protection legislation apply to armed forces recruits aged under 18?
- Are the armed forces exempt from any legislation pertaining to child welfare and rights?
- Are child recruits accommodated separately from adults?
- Does the educational provision for child recruits meet the minimum standards applicable to this age group in civilian education and employment?

Recommendations

The State party should:

- Ensure that the earliest date at which an individual can be recruited into, or begins training with, the armed forces is their eighteenth birthday and not the year in which they turn 18, and that this minimum age limit is reflected in law;
- Ensure that students in military schools who are under 18 are regarded as civilians and their rights as children respected. The civilian status of students in military schools should be established in law, ensuring that:
 - They are not subject to military law, discipline or punishment;
 - They may not be mobilised in times of national emergency;
 - They have access to an independent complaints and investigation mechanism;
 - They may leave voluntarily at any time and do not have a legal liability for formal military service upon graduation;
 - They do not receive weapons training and in no circumstances may they be used in hostilities in any role;
 - Military training and activities do not dominate the curriculum to the detriment of subjects normally studied by children of the same age group in civilian life.