

COMMENTS OF THE OMBUDSPERSON FOR CHILDREN OF THE REPUBLIC OF CROATIA CONCERNING THE IMPLEMENTATION OF THE OPTIONAL PROTOCOL TO THE CONVENTION ON THE RIGHTS OF THE CHILD ON THE INVOLVEMENT OF CHILDREN IN ARMED CONFLICT

Introduction

1. The Government of the Republic of Croatia ratified the Optional Protocol to the Convention on the Rights of the Child on the Involvement of Children in Armed Conflict on 21st of March 2002, and it came into force on 13th of June 2002 (Official Gazette, International Treaties 2/2003)

According to the Article 140 of the Constitution of the Republic of Croatia (Official Gazette, International Treaties 41/2001, 55/2001), international agreements that were concluded and ratified in accordance with the Constitution and made public are part of the internal legal order and in terms of legal effect are above the law.

The institution of the Ombudsperson for Children has been established by the Law on the Ombudsperson for Children (Official Gazette 96/03) in 2003. According to the Law, the Ombudsperson for Children:

- monitors the coordination of the laws and other regulations in the Republic of Croatia, concerned with the protection of the rights and interests of children, within the provisions of the Constitution of the Republic of Croatia, the Convention on the Rights of the Child, and other international documents concerned with the protection of the rights and interests of children,
- monitors the fulfilment of obligations of the Republic of Croatia arising from the Convention on the Rights of the Child and other international documents concerned with the protection of the rights and interests of children,
- monitors the implementation of all regulations concerned with the protection of the rights and interests of children,
- monitors the violation of individual rights of children and studies general occurrences and manners of violation of the rights and interests of children,
- makes efforts towards protection and promotion of the rights and interests of disabled children,
- proposes an undertaking of measures intended for the creation of a coherent system of protection and promotion of the rights and interests of children and for the prevention of harmful activities jeopardizing the rights and interests of children,
- informs the public on the state of the children's rights,
- performs other activities specified by this Law.

The Ombudsperson for Children acts independently and autonomously, adhering to the principles of justice and morality. No one is allowed to instruct or give orders to the Ombudsperson for Children in his/her work. The Ombudsperson for Children is appointed and acquitted of her duty by the Croatian National Parliament

The Child, within the scope of the Law on the Ombudsperson for Children, is any person younger than 18 years of age.

The obligation of the Ombudsperson for Children to monitor the implementation of the Optional Protocol to the Convention on the Rights of the Child on the Involvement of Children in Armed Conflicts in Croatian legislation and practice arises therefore from the Law on the Ombudsperson for Children. In that sense, the Ombudsperson for Children of the Republic of Croatia has the honor to submit her remarks, on the implementation of the Optional Protocol on the Involvement of Children in Armed Conflicts and on the Report of the Government of the Republic of Croatia, to the United Nations Committee on the Rights of the Child.

Part One: General Information

1. Definition of the Child in Croatian Law

As previously mentioned, the term “child” is defined by the Law on the Ombudsperson for Children as well as by the Convention on the Rights of a Child so that it includes any person younger than 18 years of age. Even so, the above mentioned definition is not systematically implemented in the Republic of Croatia, neither in existing legislation, nor in the proposals of new Laws, and different terms are used, such as *minor*, *younger minor* and *older minor*.

2. Implementation of the Protocol in accordance with the general principles of the Convention on the Rights of the Child

The principle of the best interest of the child, although implemented in many laws, is not sufficiently applied in practice, for example concerning protection of interests of children from the marketing industry, during teachers’ strike, long duration of court proceedings, to mention just a few.

Even though the right to freedom of expression is guaranteed by many laws, we believe that more attention should be given to the implementation of this right, and especially to encourage children’s genuine participation in the decision making processes in all matters that concern them.

Part two: Articles of the Protocol

1. Since the Law on Defense (Official Gazette 33/2002, 58/2002) in Articles 30 and 34 provides that the compulsory recruitment begins in the calendar year in which a person reaches the age of 18, and the requirement to enlist takes the effect at the beginning of the year in which the person reaches the age of 19, the Ombudsperson for Children of the Republic of Croatia is of the opinion that the mentioned provisions and their implementation in practice, are in compliance to the provisions of the Optional Protocol.

2. According to the available data, education on the rights of the child in the training courses for the participants in international activities in the International Military Operations Centre takes place only on the International United Nations Military Observers Course (UNMOC) for the duration of 1 hour, while other courses do not envisage education on the rights of the child. Members of the Croatian armed forces and employees of the Ministry of Defense take part in courses and seminars abroad, lasting one to two weeks, in which they receive education in human rights, such as: Human Rights in PSO, International Human Rights and Humanitarian law in Peace Operations, Combating Trafficking in Human Beings Course, The Law of Armed Conflict Course and others. The information on education specifically on the rights of the child within Joint education and training command was not available to us.

3. The Optional Protocol on the Involvement of Children in Armed Conflicts, to our knowledge, is not available to the general public, neither adults nor children. The Convention on the Rights of the Child and the Optional Protocol are not available on the website of the Ministry of Defense.