



# 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 of the Optional Protocol to the Convention on the Rights of Child on involvement of children in armed conflict

Initial reports of States parties due in 2008

**Slovakia**<sup>\*, \*\*</sup>

[30 October 2009]

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\* 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.

\*\* Annexes to this document may be consulted in the files of the secretariat.

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## Introduction

1. 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”) was signed by the signatories and opened for signature, ratification and accession in New York on 25 May 2000. The Optional Protocol was signed by the Slovak Republic on 30 November 2001. The National Council of the Slovak Republic consented to the Optional Protocol by Resolution No. 778 of 4 February 2004. By Resolution No. 2205 of 20 April 2006, the National Council of the Slovak Republic consented to the declaration of the Slovak Republic pursuant to article 3, paragraph 2, of the Optional Protocol. On 20 June 2006, the President of the Slovak Republic ratified the Optional Protocol and signed the declaration of the Slovak Republic. The instrument of ratification was deposited with the Secretary-General of the United Nations, depositary of the Optional Protocol, on 7 July 2006.

2. Pursuant to article 10, paragraph 1, the Optional Protocol entered into force on 12 February 2002. For the Slovak Republic, it entered into force on 7 August 2006, in compliance with article 10, paragraph 2. In depositing the instrument of ratification, the Slovak Republic applied the following declaration:

“In connection with depositing the instrument of ratification to the Optional Protocol to the Convention on the Rights of the Child on Involvement of Children in Armed Conflict pursuant to Article 3, paragraph 2, of the Protocol, the Slovak Republic declares that pursuant to its legal order the minimum age at which it permits voluntary recruitment into its national armed forces, is regulated by:

- Act No. 570/2005 Coll. on liability for enlistment and on amendments to certain acts, which in section 6 lays down that a person can voluntarily assume the liability for enlistment from 1 January of the calendar year in which he/she completes the age of 19
- Act No. 346/2005 Coll. on state service of professional soldiers of the Armed Forces of the Slovak Republic and on amendments to certain acts, which in section 13 lays down the condition of completing the age of 18 for admission to the State service

The fact that recruitment can be carried out solely on the basis of the act, in compliance with the Constitution of the Slovak Republic, is sufficient guarantee that such recruitment is not forced or coerced.”

The text of the Optional Protocol was published in the Collection of Laws of the Slovak Republic as Notice of the Ministry of Foreign Affairs of the Slovak Republic No. 256/2009 Coll.

3. The Slovak Republic hereby submits its initial report to the Optional Protocol to the Convention on the Rights of the Child on involvement of children in armed conflict (hereinafter referred to as the “initial report”) to the Committee on the Rights of the Child, further to article 8, paragraph 1, of the Optional Protocol, with detailed information on the measures it has taken to implement the provisions of the Protocol.

4. In preparing the initial report, the Revised guidelines regarding initial reports to be submitted under article 8 paragraph 1 of the Optional Protocol, adopted by the Committee on 19 October 2007, and which contain the recommendations on the contents and form of initial reports to the international human rights conventions, were taken into account. The guidelines propose an Introduction and six sections: Section I – General Measures of Implementation, Section II – Prevention, Section III – Criminal and Legal Liability, Section

IV – Protection, Recovery and Reintegration, Section V – International Assistance and Cooperation, Section VI – Other Relevant Law Provisions.

## **I. General measures of implementation**

5. In connection with the above mentioned and referring to Resolution No. 94 of 28 January 2009, by which the Government of the Slovak Republic approved the National Action Plan for Children for the Period 2009–2012 (hereinafter referred to as “NAP”), the Ministry of Defence of the Slovak Republic, in cooperation with the Ministry of Foreign Affairs, Ministry of Justice, Ministry of Interior, Office of the Public Defender of Rights, Ministry of Labour, Social Affairs and Family of the Ministry of Interior, Slovak National Centre for Human Rights, Slovak Red Cross, Slovak Committee for UNICEF and other State administration bodies, as well as the affected non-governmental organisations, worked out a draft initial report, which after having been approved by the Government of the Slovak Republic will be submitted to the Committee on the Rights of the Child.

6. Pursuant to article 7, paragraph 4, of the Constitution of the Slovak Republic, the Optional Protocol is an international treaty on human rights and basic freedoms, an international treaty, which directly establishes rights or duties of natural persons or legal entities, and prior to ratification thereof, consent of the National Council of the Slovak Republic is required. Pursuant to article 7, paragraph 5, of the Constitution of the Slovak Republic, as an international treaty on human rights and basic freedoms, which directly establishes the rights or duties of natural persons or legal entities, which was ratified and declared in a way laid down by law, it takes precedence over domestic laws. In signing the Optional Protocol, the Slovak Republic did not apply any reservation, and it implements its principles to the full extent.

7. The Slovak Republic implements the principles and provisions of international human rights conventions including the Convention on the Rights of the Child (hereinafter referred to as “Convention”) through tasks and activities that are contained in particular in action plans (including Action Plan for the Protection of the Rights of Children, Action Plan for the Prevention of any Forms of Discrimination, Racism, Xenophobia, Anti-Semitism and Other Manifestations of Intolerance, National Action Plan for Children for the Period 2009–2012). In preparing them, the central State administration bodies cooperate with non-governmental organisations and other entities operating in this area.

8. Information on the principles and provisions of the Convention are included also in the methodical materials issued through methodical pedagogical centres, which are organisations directly managed by the Ministry of Education of the Slovak Republic. The objective of the methodical materials is to strengthen the efforts of the State to develop systematic and continuing educational programmes on the Convention for groups of experts working with children and for children.

### **Public defender of rights**

9. In 2001, the Slovak Republic included in its legal order the institution of Ombudsman – public defender of rights, whose position and activity are regulated by the Constitution of the Slovak Republic in article 151(a), and Act No. 564/2001 Coll. on the public defender of rights, as amended. The public defender of rights is an independent body that, within the scope and in the way laid down by law, protects the basic rights and freedoms of natural persons and legal entities in proceedings before State administration bodies and other public power bodies, if their operation, decision-making or inactivity is in conflict with the legal order. In the cases laid down by law, the public defender of rights

may take part in the exercise of liability of persons operating in public power bodies, if the persons violated a basic right or freedom of natural persons and legal entities.

10. Everybody (including a child, without consent of a legal representative), who presumes that a public administration body has violated the basic rights or freedoms, can turn to the public defender of rights. It need not be a violation of the basic rights or freedoms of the person filing the complaint himself/herself, nor the conditions of previous obligatory exhaustion of possible legal remedies that have been laid down. The public defender of rights can act also on his/her own initiative.

11. If the results of the inquiry into the complaint prove violation of the basic rights or freedoms, the public defender of rights will notify the results of the inquiry into the complaint along with the draft measures to the public administration body, against whose operation, decision-making or inactivity the complaint is aimed. Within 20 days following the date of delivery of a call for the adoption of measures, the public administration body is obliged to inform the public defender of rights of its opinion on the results of the inquiry into the complaint and the adopted measures. If the public defender of rights does not agree with the opinion of the public administration body, or if he/she does not consider the adopted measures to be sufficient, he/she will notify it to a body superior to the public administration body against which the complaint is aimed, and in the event that such body does not exist, to the Government of the Slovak Republic. It is the duty of the body superior to the public administration body, against which the complaint is aimed, or in the event that such body does not exist, of the Government of the Slovak Republic, to inform the public defender of rights of the measures adopted in the matter within 20 days following the date of delivery of his/her notification. If the public defender of rights also considers these executed measures to be insufficient, he/she will notify it to the National Council of the Slovak Republic or to a body authorised by the latter.

12. If in addressing the complaint, the public defender of rights finds facts indicating that an act, other generally binding legal regulation or internal regulation issued by a public administration body violates basic rights and freedoms of natural persons and legal entities, he/she can file a proposal to give impetus to its modification or cancellation to the respective body. The body to which the public defender of rights files the proposal must inform the public defender of rights of the measures adopted on the basis of the proposal within 20 days.

13. The public defender of rights may, in the matters of compliance with legal regulations pursuant to article 125, paragraph 1, of the Constitution of the Slovak Republic, if their further application can threaten the basic rights or freedoms, or the human rights and basic freedoms resulting from an international treaty, which was ratified by the Slovak Republic and which was declared in a way laid down by law, file a proposal to initiate proceedings before the Constitutional Court of the Slovak Republic.

14. However, the Act on the public defender of rights specifies that within the framework of the negative specification of competence, the competence of the public defender of rights shall not apply, in addition to the National Council, President, Government, Constitutional Court, Supreme Audit Office of the Slovak Republic, intelligence services, decision-making powers of investigators of the Police Force, office of the public prosecution, courts (with the exception of the bodies of court management and administration and the reasons assuming a breach of discipline by a judge), even to the matters of operational or mobilization nature.

15. The public defender of rights informs the public of his/her activity, as well as on documents of both inland and international character regulating human rights, in particular through the Internet site. The Convention on the Rights of the Child and its optional protocols are also published on the site. Within the scope of activities devoted to raising the

legal conscience of children and young people, the public defender of rights draws attention to all the rights of the child resulting from international treaties and covenants. In the second half of 2008, the Office of the Public Defender of Rights started executing the project Child Co-Workers of the Public Defender of Rights (child ombudsmen). Regular meetings of child ombudsmen are focused on current problems which children and young people encounter, and also on the international and inland regulation of the rights of the child, including protection in armed conflict. The project includes the establishment of a new educational Internet site intended for children, which has been available to the public since 1 June 2009. The said site includes the text of the Convention on the Rights of the Child and its optional protocols.

### **Committee of Ministers for Children**

16. By Resolution No. 94/2009, the Government of the Slovak Republic established the Committee of Ministers for Children (hereinafter referred to as the “Committee of Ministers”), which is an advisory, coordination, audit and initiative body of the Government of the Slovak Republic (hereinafter referred to as the “Government”) on matters of the rights of the child and exercise of those rights. It has been established pursuant to section 2 of Act No. 575/2001 Coll. on the organisation and activity of the Government and organisation of central State administration bodies as amended.

17. The Prime Minister is the Chairman of the Committee of Ministers, the Deputy Prime Minister for Knowledge-Based Society, European Affairs, Human Rights and Minorities and the Deputy Prime Minister and Minister of Education are Vice-Chairmen. Other members include the Deputy Prime Minister and Minister of Justice, the Deputy Prime Minister and Minister of Interior, the Minister of Labour, Social Affairs and Family, the Minister of Health, the Minister of Finance, the Minister of Culture, the Minister of Construction and Regional Development, the Minister of Foreign Affairs, the General Attorney, as well as a representative of an independent institution for the public protection of the rights of children.

18. The activities of the Committee of Ministers does not affect the competence and responsibility of ministries, other central State administration bodies, other State administration bodies and self-administration in the area of protection of the rights of children, or the independent institution for the protection of the rights of children. The Committee of Ministers fulfils tasks according to an approved plan of activity, which results from the Plan of Work of the Government, Plan of Legislative Tasks of the Government and the Plan of Main Tasks of the Government for the respective year. The first meeting of the Committee of Ministers will take place by the end of the year 2009.

19. In its activities, it utilises professional knowledge and experience of ministries and other central bodies, of the public defender of rights, results of scientific-research institutions, non-governmental organisations, universities and other institutions. In fulfilling the tasks, it follows the acts, international covenants in the area of the rights of children and human rights, legal acts of the European Union, generally binding legal regulations and resolutions of the Government. The Committee of Ministers monitors and takes into account the recommendations of professional bodies and institutions of the European Union, Council of Europe, United Nations Organisation and other international bodies, organisations and institutions in the area of protection of children and young people.

## II. Prevention (arts. 1, 2, 4, para. 2, and art. 6, para. 2)

### **Measures to ensure that persons who have not reached the age of 18 are not compulsorily recruited into the armed forces (article 1, 2 and 4 paragraph 2)**

#### **Liability for enlistment**

20. Defence of the Slovak Republic is, pursuant to article 25, paragraph 1, of the Constitution of the Slovak Republic, the duty and affair of honour of citizens. The content and scope of the liability for enlistment is set by Act No. 570/2005 Coll. on liability for enlistment, and on amendments to certain acts as amended (hereinafter referred to as the “Act on Liability for Enlistment”), which, in sections 4 to 6, lays down that the liability for enlistment is the duty to undergo the recruitment and to carry out extraordinary service or alternative service.

21. The legal regulation does not allow recruiting compulsorily persons who have not reached the age of 18 into the Armed Forces of the Slovak Republic. The legal order of the Slovak Republic does not allow, under any circumstances, a reduction in the age of compulsory recruitment or of the date of origination of the liability for enlistment. Pursuant to section 5 of the Act on Liability for Enlistment, the liability for enlistment comes into existence for a male citizen on 1 January of the calendar year, in which he reaches the age of 19 years, if he has permanent residency in the Slovak Republic. The liability for enlistment for a male citizen, who has permanent residency abroad and has registered for permanent residency in the Slovak Republic after 1 January of the calendar year, in which he reaches the age of 19 years, comes into existence on the date of registration for permanent residency in the Slovak Republic. The liability for enlistment for a male citizen who has obtained the citizenship of the Slovak Republic after 1 January of the calendar year in which he reaches the age of 19 years, comes into existence on the date of obtaining citizenship, if he has permanent residency in the Slovak Republic.

22. The certificate of birth and identity card are requested as relevant documents for the verification of age of potential recruits. Pursuant to section 8 of the Act on Liability for Enlistment, the territorial military management opens a national registration file for the citizen on the day he becomes eligible for the liability for enlistment. National registration ensures the processing and storing of personal data and data about the residency status of registered citizens with the aim of ensuring the important interest of State security and defence.

23. Pursuant to section 10 of the Act on Liability for Enlistment, recruitment is performed during war time and state of war. The President of the Slovak Republic decides on the birth year of the registered citizens invited to recruit on the proposal from the Government of the Slovak Republic, while the Minister of Defence decides on the terms of recruitment. Recruitment is performed in the territorial district of the region according to the place of permanent residency of the registered citizen. The Director of the territorial military management within the territorial district establishes a recruiting commission with the composition as follows: a chairman, represented by the Director of the territorial military management or a person authorized by him/her, a doctor appointed by the Ministry of Defence, and a doctor appointed by the self-governing region (if the Ministry of Defence fails to appoint a doctor, two doctors appointed by the self-governing region).

24. The registered citizen will be invited to the recruitment by the territorial military management by a call-up order to recruit. The call-up order to recruit will be delivered into the hands through the post-office, community or the territorial military management. The registered citizen is obliged to show up in the place of recruitment at the time set in the call-

up order. If he is not able to come, he is obliged to inform immediately the territorial military management on the reason hindering him from showing up to the recruitment and to document this reason with the confirmation of a physician or a decision of a State body.

25. If the registered citizen does not show up to the recruitment, nor reports the reason why he cannot show up to recruitment and the call-up order for recruitment was properly delivered to him, the territorial military management can ask the respective unit of the Police Forces to bring the registered citizen to the recruitment. The territorial military management will inform the citizen in the call-up order on the possibility of recourse to the Police Forces.

26. During the recruitment, the citizen is obliged to prove his identity and to file to the recruiting commission the statement from his medical documentation. The attending physician is obliged to provide the registered citizen, after showing his call-up order for recruitment, with the statement from his medical documentation for the purpose of assessment of the citizen's ability to carry out the extraordinary service or the alternative service.

27. The registered citizen called-up for recruitment is obliged to undergo the medical examination made by the physicians participating in the recruiting commission. The territorial military management on the basis of the assessment of the health state of the registered citizen by the recruiting commission issues the decision on the ability to carry out the extraordinary service or alternative service, or on the temporary incapability to carry out the two types of service or it will issue a decision on the incapability to carry out such service.

28. The registered citizen, who in the condition of safety of the State refused to carry out the extraordinary service, shall be, on the basis of a decision of the territorial military management, obliged to carry out the alternative service pursuant to Act No. 569/2005 Coll. on alternative service at the time of war and state of war as amended.

#### **Voluntary assumption of the liability for enlistment**

29. Pursuant to section 6 of the Act on Liability for Enlistment, the citizen who has not been called on to assume liability for enlistment can voluntarily assume the liability for enlistment from 1 January of the calendar year in which he reaches the age of 19 years, if he has permanent residency in the Slovak Republic; the territorial military management decides on the permission to assume voluntarily the liability for enlistment on the basis of the citizen's written application. The liability for enlistment assumed voluntarily comes into effect for the citizen on the date of delivery of the decision of the territorial military management on the voluntary assumption of the liability for enlistment.

30. The citizen who does not have permanent residency in the Slovak Republic or a foreigner can voluntarily assume the liability for enlistment from 1 January of the calendar year in which he reaches the age of 19 years. The President of the Slovak Republic decides on the permission to assume voluntarily the liability for enlistment on the basis of a written application of the citizen or foreigner submitted to the Ministry of Defence. In such case, the liability for enlistment comes into effect for the citizen or foreigner on the date of delivery of the decision of the President of the Slovak Republic on the voluntary assumption of the liability for enlistment. The liability for enlistment can be voluntarily assumed only to the full extent.

#### **Professional service in the Armed Forces of the Slovak Republic**

31. The present concept of construction of the Armed Forces of the Slovak Republic (hereinafter referred to as "AF-SR") assumes full professionalisation at the time of peace, on the basis of a voluntary contractual relationship between the citizen and State. The

liability for enlistment laid down by the Constitution remains preserved, but the compulsory recruitment is carried out only in the event of a threat to the State's safety or the state of war.

32. Act No. 346/2005 Coll. on the State service of professional soldiers of the Armed Forces of the Slovak Republic and on amendments to certain acts, as amended (hereinafter referred to as the "Act on the State Service") regulates the performance of military service in the Armed Forces of the Slovak Republic. Paragraph 13 lays down that it is possible to admit to State service a citizen, who applied for the admission to State service in writing and who has reached the age of 18 years. The applicant must meet the following conditions: minimum 18 years and maximum 30 years (for rank corps, non-commissioned officers and officers), or 25 years (if during the preparatory State service, he will study at a military university), at least secondary technical education, without passing a school-leaving examination, citizenship of the Slovak Republic or a State that is a member state of the European Union or a member of an international organisation ensuring the common defence against attack, in which the Slovak Republic is a member, permanent residency in the Slovak Republic, command of the State language, irreproachability, reliability, good health condition, mental competence and physical sturdiness. On the date of admission to the armed forces, the candidate must not be a member of a political party or political movement.

33. The fulfilment of the conditions necessary in relation to the nature of the activities to be performed by professional soldier in the state service is verified by means of a selection procedure. Selection procedure is announced by the staff office in the press, possibly in other mass communication means available to the public, at least three weeks prior to its commencement, stating the name of function, type of state service, conditions for admission etc.

34. The first part of the selection procedure begins at the recruitment centre, which is situated in each regional town of the Slovak Republic. Here, the candidate will obtain all necessary information on the admission to the professional service in the Armed Forces of the Slovak Republic, professional advisory services and assistance in making the decision on the career of professional soldier. Basic information is provided also by phone at 0800 11 24 11 and on the Internet site [www.profesionalnaarmada.sk](http://www.profesionalnaarmada.sk). The selection procedure continues in the Centre of Personnel Selection (located in Nitra and Košice). On the basis of the results of the selection procedure, the staff office shall send, within ten days following the date of selection procedure completion, a written notice of the fulfilment/non-fulfilment of conditions for the admission to State service.

35. In connection with taking the selection procedure, the candidate must fill in and deliver to the recruitment centre a personal questionnaire, curriculum vitae, documents on the achieved education, confirmations from the previous employers on the practice credit or from the employment bureau, work appraisal from the last employer, certificate of citizenship, transcription of the Penal Register, birth certificate. The respective recruitment centre will contact the candidate and invite him to a personal interview. During the interview, the candidate must submit his identity card, and also the personal identification card (military book) if he has completed military service, and the medical documentation from his attending physician. Directly in the recruitment centre, he must fill in the application for admission to State service (obligation of minimum 3 years and maximum 6 years), the declaration on oath related to the fulfilment of conditions for admission to State service, and the declaration related to the protection of personal data.

36. In the event that the candidate meets the preliminary conditions, the centre of personnel selection will invite him to tests of physical sturdiness (the disciplines are focused on the physical perseverance and performance – generally three different disciplines), psychodiagnostic assessment, assessment of health competence for the performance of professional soldier State service, and personal interview and personal advisory services with the aim of specifying a suitable State service function. After the successful passing of the selection procedure and execution of the order of admission to State service, the recruitment centre will deliver a determination sheet, with which the candidate will report to the specified military unit on a specified day. The service relationship comes into effect on the date of accession to a military unit, by the signing of a personal order and the oath. In the event that the citizen fulfilled the conditions of admission to State service (and there is a suitable function for him), pursuant to section 17 of the Act on the State Service, he will be admitted to the preparatory State service. Preparation is carried out in the function of:

- (a) Expectant, if he is trained for the rank corps and non-commissioned officers corps;
- (b) Cadet, if he is trained for the rank corps of officers.

37. During the preparatory State service, a professional soldier takes basic training lasting from four to nine weeks. The professional soldier, who is trained for the rank corps of officers, studies during the preparatory State service also at a military university (if he has not achieved university education) or takes an officer's course for university graduates (if he has achieved university education at a university different from the military university). After successfully completing the preparatory State service, the professional soldier is admitted to temporary State service, which he performs during the period specified in the Act on the State Service.

### **Military schools**

38. Within the scope of professionalisation of the AF-SR, and in compliance with the needs of the AF-SR, the military secondary schools were gradually abolished. In 1993, the Military Secondary School of Signal Corps in Nové Mesto nad Váhom was abolished; in 1995, three military secondary schools – the Military Secondary School of Ground Forces in Martin, the Military Secondary Tank and Automobile School in Nitra, and the Military Secondary School of Logistic Forces in Žilina were abolished; in 1996, the Military Grammar School of the Slovak National Uprising in Banská Bystrica was abolished; while the Military Secondary School in Liptovský Mikuláš and the Military Secondary Aviation School in Košice were abolished as of 30 September 2003.

39. The only military secondary school, which was not abolished, and the Ministry of Defence was its founder for several years, is the Secondary Technical and Aviation School in Trenčín. Act No. 279/2006 Coll., which amends Act No. 446/2001 Coll. on the property of higher territorial units, as amended, and which amends Act No. 596/2003 Coll. on state administration in the school system and school self-government and on amendments to certain acts, as amended, supplemented section 39 with a new paragraph 15, which changed the founding competence of secondary schools falling under the competence of the Ministry of Defence. Since 1 July 2006, the Regional School Office in Trenčín has been the founder of this secondary technical school. At present, no military secondary school falls under the competence of the department of defence.

40. At the time of the existence of military secondary schools, the admission of students to these schools was not dependent on the consent of parents. Students of military secondary schools signed the assumption of the liability for enlistment only after they had reached the age of 18 years, in compliance with then valid Act No. 320/2002 Coll. on

liability for enlistment, as amended by Act No. 512/2002 Coll., Act No. 330/2003 Coll. and Act No. 545/2003 Coll.

41. Up to 1 September 2008, two educational institutions providing education and training to professional soldiers existed in the military education system:

- General Milan Rastislav Štefánik Armed Forces Academy in Liptovský Mikuláš – a state military university (hereinafter referred to as “Armed Forces Academy”)
- Marshal Andrej Hadik National Academy of Defence in Liptovský Mikuláš – an educational and training centre (hereinafter referred to as “National Academy of Defence”)

Students – cadets fulfilled the military programme at the National Academy of Defence and completed university studies at the Armed Forces Academy. By Act No. 144/2008 Coll., the National Academy of Defence was abolished on 1 September 2008.

42. At present, one state military university falls under the competence of the department of defence – the Armed Forces Academy, which provides university education in three degrees of university studies: four-year bachelor’s degree (Degree I), single-year engineering degree (Degree II) and doctorate degree (Degree III). It is included in the list of state universities in the Slovak Republic contained in annex 2 to Act No. 131/2002 Coll. on universities and on amendments to certain acts, as amended.

43. Students, who carry out the State service of professional soldiers of the AF-SR, study at the Armed Forces Academy; also the students in a service contract pursuant to a special regulation regulating the service contract of members of security corps and students of foreign military universities can study at the Academy.

44. Completion of 18 years and completion of complete secondary education or complete secondary technical education (section 56, paragraph 1, of Act No. 131/2002 Coll. on universities and on amendments to certain acts, as amended) is the condition for the admission to studies at the Armed Forces Academy.

45. During the university studies, the students of the Armed Forces Academy are in the preparatory State service, during which they are in the function of cadets. A student can apply for the termination of the service contract of professional soldier, and it will be terminated on the basis of his application by decision of the staff office head.

46. Within the framework of university studies, students take military training. In the event of declaration of the status of war, they would continue in the abbreviated educational and training programme. During the study, students are only preparing for the military career, which starts only after the graduation, when the graduates are granted the first military officer’s rank “Lieutenant”. Since that time they start carrying out the temporary state service in functions in units and facilities of the AF SR.

47. The Armed Forces Academy employs on average 350 civil employees and 58 professional soldiers. University education is provided by 118 pedagogic employees and 16 professional soldiers, who act as lecturers. The data on students in the service contract, attending the Armed Forces Academy are kept in the register of students, governed by a special regulation regulating the protection of classified materials.

48. The area of protection of human rights in the legal order of the Slovak Republic, including the rights of children, as well as the status of international treaties on human rights, which are binding upon the Slovak Republic, are included in the accredited educational programmes of the Armed Forces Academy and represent the contents of the obligatory subjects, namely Law and Law in the AF-SR.

49. During the studies, students are subject to disciplinary powers of the rector of the Armed Forces Academy and are obliged to observe the discipline pursuant to the internal regulation Disciplinary Rules of the Armed Forces Academy for Students. This internal normative act has been worked out so that in applying it in practice, discipline is observed in a way compatible with human dignity.

50. Pursuant to Act No. 152/1998 Coll. on complaints, students can file a complaint either verbally or in writing to claim protection of their rights or interests protected by law, in the event that they have been violated or endangered by the activity or inactivity of a public administration body, or if they draw attention to particular defects, in particular to a violation of legal regulations, the remedy of which requires an intervention of a public administration body. The detailed procedure for complaint filing is regulated by the respective act.

51. The legal order of the Slovak Republic does not permit the activity of armed organised groups other than the AF-SR and the Police Corps of the Slovak Republic. It forbids natural persons and legal entities from owning military weapons and automatic firearms without a special permission issued by the Ministry of Interior. The act even does not permit the acquisition of firearms for personal protection by people younger than 18 years.

52. Even prior to the accession of the Slovak Republic to the Optional Protocol, the legal order of the Slovak Republic contained sufficient legal regulation for its full implementation. The Slovak Republic has never been identified as a problematic country in the reports of the Secretary-General submitted to the United Nations Security Council on the basis of resolution 1612 (2005).

### **Promotion of public awareness on the principles and provisions of international human rights documents (art. 6, para. 2)**

53. The Slovak Republic promotes public awareness on the principles and provisions of international human rights documents, including the Convention on the Rights of the Child through the tasks and activities contained in particular in action plans (including National Action Plan for Children for the Period 2009 – 2012, Action Plan for the Prevention of any Forms of Discrimination, Racism, Xenophobia, Anti-Semitism and Other Manifestations of Intolerance).

54. Information on the principles and provisions of the Convention on the Rights of the Child is included also in the methodical materials issued through methodical-pedagogic centres, which are organisations directly governed by the Ministry of Education of the Slovak Republic. The methodical materials strengthen the development of systematic educational programmes regarding the issue of protection of the rights of children for all groups of experts working with children and for children.

55. On a long-term basis, the Slovak National Centre for Human Right has been executing an educational project for workers in foster homes, as well as a project of protection of children's rights for social workers of offices of labour, social affairs and family and for judges of district courts. Several non-governmental organisations are actively engaged in the educational activities, in particular the Slovak Committee for UNICEF, *Úsmev ako dar* (Smile as a Gift), *Návrat* (Return), and others which issued materials informing on human rights generally and on the rights of children separately and organised conferences about the respective matters.

56. The mission of the Slovak Committee for UNICEF is to create such conditions that the procedures in relation to children are uniform, coordinated and executed with

understanding for children, in their interest and with their participation. For that, UNICEF utilises its foreign contacts, information sources and cooperation with governmental, non-governmental and academic institutions. It assists in the dissemination of information on individual articles of the Convention among both the adults and children. It raises a public discussion regarding the rights of children and in the long term, it has been drawing attention to the need to establish a specialised workplace for the protection of children's rights – a child ombudsman. It also concentrates on collecting information on children, in particular through the child helpline *Linka detskej istoty* (child safety line).

57. UNICEF Slovakia systematically develops activities with the aim of implementing the Convention on the Rights of the Child and related protocols as completely as possible. In the long term, it is submitting for public discussion the problem of violence against children, with accent on the conclusions of the United Nations Study on Violence against Children (2005) ([www.violencestudy.org](http://www.violencestudy.org)). It systematically takes note of the presentation of the violence problem in the media and pays attention to the ways that new media, i.e. Internet and mobile phones, can harm children:

- In the long term, it is developing the project, Children-Friendly School, intended for pupils and students of primary and secondary schools at the age of 10 to 16 years, which supplements the standard teaching of ethics and civics with the topic of human rights and rights of the child. It includes the presentation of topics related to children's rights and the subsequent discussion.
- UNICEF Slovakia participates in the project *Global Development Education* in cooperation with the Ministry of Foreign Affairs, Ministry of Education, methodical-pedagogic centres and selected non-governmental organisations, which deal with development education. Within the framework of this project, over 300 pedagogues have been retrained in the topic of the rights of the child in regional courses throughout Slovakia.

The UNICEF child helpline, *Linka detskej istoty*, provides professional assistance and care to children and young people through a telephone communication advisory service. It also provides direct assistance through a crisis centre and social and legal advisory service and is involved in other projects focused on the rights of children. The web site ([www.unicef.sk/sk/ldi](http://www.unicef.sk/sk/ldi)) provides children with the interactive possibility to orient themselves with regard to the contents of frequented terms related to the human rights and rights of children, namely in the project, *Za oponou* (Behind the curtain). The child helpline, *Linka detskej istoty*, also contributes to better understanding and removing violence among children by executing the CHIPS (Childline in Partnership with School) project, which educates school children on coeval consulting and non-violent solving of conflicts. Within the edition of the helpline *Linka detskej istoty*, methodical publications for parents and experts working with children are issued to help solve educational, social and legal problems.

58. Within the Ministry of Defence as a whole, systematic attention has been paid in the long term to the education and training of members of the armed forces in the area of the international law of armed conflict and international humanitarian law, including the exercise of human rights in the activity of the AF-SR in the operations supporting peace led by UN, NATO and EU. In its activity, the Ministry of Defence implements the principles of all main human rights international documents. To support this effort, in December 2009, Directives of the Ministry of Defence of the Slovak Republic No. 119/2008 on education in the area of armed conflict law were issued as an internal legal regulation.

59. Since 1999, the Ministry of Defence of the Slovak Republic has been cooperating with the International Committee of the Red Cross (ICRC) on the basis of the Cooperation Agreement in the area of propagation of humanitarian law and general humanitarian

regulations. In the agreement, the ICRC undertook to provide assistance in the education and training of members of the AF-SR in the area of humanitarian law and law of armed conflict through lectures, seminars, courses, workshops and by supporting publishing activities from this area. The department of the Ministry of Defence has been executing the Agreement to the full extent since 1999. The principles of international humanitarian law and law of armed conflict are included in the training and teaching programmes of members of the AF-SR, who take the education and training in the area of the law of armed conflict with the emphasis on Geneva Conventions and Hague Conventions, peaceful solving of conflicts, sanctions for the violation of principles of the international law of armed conflict in military courses from the lowest to highest levels. Professional soldiers get basic information in the Primary Training School, which must be completed by all persons interested in performing the state service of professional soldier. Preparation continues within the framework of career courses in the Non-Commissioned Officer Academy and in the Armed Forces Academy. The units prepared for crisis management operations led by NATO, EU and UN take special training focused on the international humanitarian law and human rights, including the rights of children. In cooperation with the Regional Delegation of the ICRC in Budapest, both national and international courses that were focused on the law of armed conflict were taking place on a regular basis, in recent years they have been centred on training instructors of the AF-SR. In addition to the theoretical part, also practical training in solving the model situations of treating the victims of armed conflicts and in utilising the permitted means and ways of fighting took place.

60. In cooperation with the Regional Delegation of the ICRC in Budapest, within the framework of the Ministry of Defence, basic documents and handbooks of the international humanitarian law and law of armed conflict were published:

- Military humanitarian law: Hague conventions in the system of international humanitarian law, Library of military professional, Bratislava 1998, MO SR-VITA
- Conducting a war conflict: A selection compiled from Hague conventions and other international contractual documents, Bratislava 2004
- The law of war: Summary for commanders, Bratislava 2003
- Frédéric de Mulinen, Handbook on the law of war for armed forces, Bratislava 2005
- The law of armed conflict: A teaching set for instructors, Bratislava 2005

In their activity, the AF-SR utilise also the publication Geneva Conventions and Additional Protocols, which in cooperation with the ICRC was issued by the General Secretariat of the Slovak Red Cross in 2002. The present status of implementation of the international humanitarian law in the Slovak Republic is mapped by the publication by J. Králik and B. Kadlečík, Study on the implementation and dissemination of the international humanitarian law in Slovakia, issued by the Slovak Red Cross in Bratislava in 2008. The publication has been issued also in English.

61. The activities of the permanent inter-ministerial advisory body of the Minister of Foreign Affairs of the Slovak Republic – the Committee for the International Humanitarian Law include the dissemination of principles of the international humanitarian and war law in relation to the wide public. Its members include representatives of the Ministry of Foreign Affairs, Ministry of Defence and general staff of the AF-SR, Ministry of Labour, Social Affairs and Family, Ministry of Interior, Ministry of Education, Slovak Red Cross, among others. The framework of activities of the Committee includes also lectures from the area of the humanitarian law and human rights, including the rights of children, for students of universities and secondary schools, for activists and workers of non-governmental and humanitarian organisations.

### III. Criminal and legal liability (arts. 1, 2, 4, paras. 1–2, and art. 6, para. 1)

62. Within the framework of criminal law recodification in the Slovak Republic, new criminal codes were adopted, namely, Act No. 300/2005 Coll. Criminal Code, as amended (hereinafter referred to as “Criminal Code”), and Act No. 301/2005 Coll. Code of Criminal Procedure, as amended (hereinafter referred to as “Code of Criminal Procedure”), which came into effect on 1 January 2006. Chapter Twelve of the Criminal Code (sections 417 to 435) lays down criminal offences against peace, criminal offences against humanity and war criminal offences. Pursuant to the provision of section 433, paragraphs 1 and 2 (War Injustice) of the Criminal Code, any person, who commits an offence considered to be a war crime under article 8 of the Rome Statute of the International Criminal Court, shall be liable to a term of imprisonment of 12 to 25 years or life imprisonment. The offender shall be liable to life imprisonment if he commits such offence and causes serious bodily harm or death to several persons or other particularly serious consequence, or if he commits it for a remuneration. In this connection, it should be mentioned that article 8 of the Rome Statute of the International Criminal Court considers being a war crime, *inter alia*, also conscripting or enlisting children under the age of fifteen years into the national armed forces or using them to participate actively in hostilities, regardless of whether it was committed at the time of an international armed conflict (para. 2(b)(xxvi)), or an armed conflict not of an international character (para. 2(e)(vii)).

63. According to the Statistical Annual issued by the Ministry of Justice of the Slovak Republic, no war crimes pursuant to section 431 of the Criminal Code have been committed in the territory of the Slovak Republic since the Optional Protocol entered into force for the Slovak Republic (i.e. 7 July 2006). For that reason, no natural persons have been sentenced for the said war crimes.

64. Basic principles of criminal liability are laid down in section 15–18 of the Criminal Code. In compliance with section, 435, paragraph 3, of the Criminal Code, a military commander shall be also criminally responsible for the criminal offences provided for in Chapter XII of the special part of the Criminal Code, if the offence was committed by armed forces under his effective command and control as a result of his failure to exercise control over such forces, if he knew or should have known on the basis of circumstances at that time that the armed forces were committing or were going to commit such criminal offences, and he did not take all necessary and reasonable measures within his power to prevent or repress the commission or failed to report the case to competent authorities for investigation and prosecution. The superior who issues an order shall be responsible for a criminal offence committed on the basis of such order as the offender. The Act on State Service in section 117 (Professional Discipline), paragraph 4, lays down that if a professional soldier supposes that a military order, command, direction or instruction of his commander is in conflict with a generally binding legal regulation, he shall be obliged to advise the commander of it. If the commander insists on fulfilling the military order, command, direction or instruction, he must confirm it to the professional soldier in writing and the professional soldier shall be obliged to fulfil it. This section further lays down in paragraph 5 that a professional soldier is obliged to refuse to fulfil a military order, command, direction or instruction of his commander, if by fulfilling it he would commit a criminal act; he shall notify the fact immediately to the closest superior of the commander, who issued the military order, command, direction or instruction. A member of the armed forces shall be criminally liable if he was aware or could have been aware immediately after receiving an order that the order was obviously and clearly illegal and a criminal offence would be committed by fulfilling the order. If the soldier was aware that by fulfilling the order a criminal offence was committed, he should have warned his superior in order not to be criminally liable.

65. The Slovak Republic bound by the Convention on the Non-Applicability of Statutory Limitations to War Crimes and Crimes Against Humanity, signed in New York on 26 November 1968 (for the Slovak Republic signed on 26 November 1968, ratified on 13 August 1970, Regulation No. 53/1974 Coll.). Pursuant to section 88 of the Criminal Code, the expiry of the limitation period shall not result in the extinction of the punishability for criminal offences set out in Chapter Twelve of the Special Part of the Act, except for criminal offence of supporting and promoting groups leading to the suppression of fundamental rights and freedoms pursuant to sections 421 and 422, the criminal offence of defamation of a nation, race and conviction pursuant to section 423 and the criminal offence of incitement to national, racial or ethnic hatred pursuant to section 424.

66. Pursuant to the provision of section 431 paragraph 1 to 2 of the Criminal Code (War Atrocities), any person, who in wartime violates the rules of international law by inhuman treatment of vulnerable civilian population, refugees, wounded persons, members of the armed forces who have laid down their arms, or prisoners of war, shall be liable to a term of imprisonment of four to ten years. The same sentence shall be imposed on any person, who in wartime violates the rules of international law by failing to take effective measures for the protection of persons, who are in need of such help, in particular children, women, wounded or old persons, or who prevents such measures being taken or by impeding or blocking civil protection organisations of an enemy, of a neutral or other state in the fulfilment of their humanitarian tasks.

67. Pursuant to the valid legal order, there are no legal provisions, which would represent an obstacle to the implementation of the Optional Protocol with the exception of criminal and legal liability of legal entities including the private and security services or companies. However, the draft amendment to the valid Criminal Code considers the possibility to impose protective measures to legal persons for the acts, which fulfil the signs of the body of the specified criminal offences.

68. Articles 49, 50, 129 and 149 of Geneva Conventions and article 85 of Additional Protocol I contain the principle *aut dedere, aut judicare*. On the basis thereof, the contracting parties are obliged to prosecute the persons, who committed war crimes or in the event that they do not intend to prosecute these persons, to extradite them to the states that are willing to prosecute the offenders.

69. The jurisdiction of courts of the Slovak Republic in negotiating all the mentioned criminal offences is regulated by the Criminal Code, Code of Criminal Procedure, Act No. 757/2004 Coll. on courts and on amendments to certain acts and with effect till 16 July 2009, Act No. 458/2003 Coll. on the establishment of the Special Court and Office of Special Prosecution and on amendments to certain acts as amended. Since 17 July 2009, Act No. 291/2009 Coll. on the Specialised Criminal Court and on amendments to certain acts has been in force, which in contrast to the current legal regulation extends the scope of competence of the Specialised Criminal Court with some new bodies of criminal offences. The establishment of the new Specialised Criminal Court in the system of courts of the Slovak Republic continually continues in the activity of the former Special Court.

70. Provisions of sections 3 to 7 of the Criminal Code regulate its territorial and personal applicability. In compliance with section 3, paragraphs 1 to 3, of the Criminal Code, the Act is applied in particular to determine the criminal liability for a criminal offence committed in the territory of the Slovak Republic. A criminal offence shall be considered as having been committed in the territory of the Slovak Republic, even if the offender performed the action, in whole or in part, on its territory, even if the actual breach of or threat to an interest protected under this Act took place or was intended to take place, in whole or in part, outside of its territory. A criminal offence shall be considered as having been committed in the territory of the Slovak Republic, also if the offender committed the act outside of the territory of the Slovak Republic, if the actual breach of or threat to an

interest protected under this Act took place or was intended to take place, in whole or in part, on its territory. The Act shall also be applied to determine the criminality of an act committed outside of the territory of the Slovak Republic aboard a vessel registered under the flag of the Slovak Republic or aboard a plane entered in the aircraft register of the Slovak Republic (the principle of territoriality).

71. In compliance with sections 4 and 5 of the Criminal Code, the Act shall also be applied to determine the criminality of an act committed outside of the territory of the Slovak Republic by a Slovak national or a foreign national with permanent resident status in the territory of the Slovak Republic. This Act shall also be applied to determine the criminality of a particularly serious crime, if the act was committed outside of the territory of the Slovak Republic against a Slovak national and if it carries criminal liability in the place of its commission, or if the place of its commission does not fall under any criminal jurisdiction (the principle of personality). Legal sentence of a Slovak national by a foreign court for the same act is not an obstacle in the criminal action by the bodies of the Slovak Republic (it is not the obstacle *res judicata*). However, pursuant to section 215, paragraph 2(b) of the Code of Criminal Procedure, such fact can represent a reason for stopping the criminal action, if the decision issued by the foreign body can be considered sufficient.

72. The Criminal Code shall also be used to determine the criminality of an act when it is prescribed by an international treaty ratified and promulgated in the manner defined by law and which is binding on the Slovak Republic (section 7 of the Criminal Code – Scope under international treaties). This new provision of section 7 indirectly took over the provision of section 19 of Act No. 140/1961 Criminal Code as amended, which regulated the so-called principle of protection. The criminality of enumerated criminal acts was assessed pursuant to the legal order of the Slovak Republic also in the event that such criminal act was committed abroad by a foreign national or a person without nationality, who was not an inhabitant of the Slovak Republic. The enumeration of the criminal acts was limited to some particularly serious criminal acts listed in section 19 of Act No. 140/1961 Coll. Criminal Code as amended in relation to sections 42 and 62 of Act No. 140/1961 Coll. Criminal Code as amended, the criminal prosecution of which requires international cooperation of states (the crime of genocide, war atrocities, persecution of population, crime against peace etc.). For other criminal acts, the application of powers of bodies of the Slovak Republic on criminal acts committed abroad by a foreign national or a person without nationality without permanent resident status in the territory of the Slovak Republic was excluded.

73. According to the criminal law of the Slovak Republic, the Act shall be applied to determine the criminality of an Act committed outside of the territory of the Slovak Republic by a foreign national, who does not have permanent resident status in the territory of the Slovak Republic where the act carries criminal liability under the laws of the territory where it was committed, the offender was detained or arrested in the territory of the Slovak Republic and was not extradited to another state for prosecution (section 6 of the Criminal Code – the subsidiary principle of universality). However, the offender may not receive a more severe punishment than that allowed under the law of the state, in the territory of which the criminal offence was committed. Extradition of offenders abroad is regulated by treaties on mutual legal assistance in criminal matters, which have been ratified and promulgated in the manner laid down by law, and which are binding on the Slovak Republic. The Slovak Republic is a contracting party to several multilateral covenants of the Council of Europe in the area of mutual assistance in criminal matters.

74. Pursuant to section 7 of the Criminal Code, this Act shall also be used to determine the criminality of an act when it is prescribed by an international treaty ratified and promulgated in the manner defined by law and which is binding on the Slovak Republic. Thus, the provisions of the Criminal Code regulating the competence of bodies acting in

criminal proceedings create conditions for the origination of an international element in criminal and legal relations, which allows applying the jurisdiction of the Slovak Republic also out of its territory, its application also to foreign nationals and persons without nationality, who are not residents of the Slovak Republic, even for the offences committed abroad. This conditions also the adequate reaction from the states, whose interests could be affected by the mutual application of their jurisdiction. The common interest of states in sanctions against the negative phenomena, which endanger all states (e.g. the suppression of slavery, slave trade, terrorism, the crime of genocide, crimes against humanity etc.), is also the reason for such legal regulation.

75. Pursuant to section 501 of the Code of Criminal Procedure, the extradition of a person abroad shall be inadmissible, also if it concerns a Slovak national, unless the obligation to extradite its own nationals is contained in an act, international treaty or a decision of an international organisation, which is binding on the Slovak Republic. In the same way, a criminal sentence of a foreign state cannot be executed in the territory of the republic, nor can it have other effects here, unless a promulgated international treaty, which is binding on the Slovak Republic, lays down otherwise. For the procedure of extradition abroad, provisions of Chapter Two (Extradition) Part Five (Legal Relations with Foreign Countries) of the Code of Criminal Procedure (sections 489–514) shall be used.

76. The amendment to the Constitution of the Slovak Republic in 2001 created conditions for the extradition of Slovak nationals to be prosecuted before the International Criminal Court. In connection with the Rome Statute of the International Criminal Court, surrender of a person for proceedings before the International Criminal Court is mentioned instead of extradition.

77. Pursuant to section 498 of the Code of Criminal Procedure (Extradition Abroad), a request for the extradition of a person from the Slovak Republic abroad shall be submitted to the Ministry of Justice of the Slovak Republic. On the basis of section 499 of the Code of Criminal Procedure, extradition abroad is admissible, if the act, for which extradition is requested, is a criminal offence under the law of the Slovak Republic and is punishable under the same law by a maximum imprisonment of at least one year. The extradition abroad for the purpose of the enforcement of an imprisonment sentence for an extradition criminal offence is admissible, if the sentence imposed or its remainder to be served is at least four months. Several sentences or non-served remainders of several sentences may be added up.

78. Pursuant to section 501 of the Code of Criminal Procedure (Inadmissibility of Extradition), the extradition of a person abroad shall be inadmissible, if:

- It concerns a Slovak national, unless the obligation to extradite its own nationals is contained in an act, international treaty or a decision of an international organisation, which is binding on the Slovak Republic
- It concerns a person, who applied in the Slovak Republic for a refugee status or who was granted such a status, to the extent of the protection provided to such persons by a separate act or by an international treaty; this shall not apply if it concerns a person, who applied in the Slovak Republic for a refugee status repeatedly and the decision on granting the refugee status has been lawfully made
- The criminal prosecution or the enforcement of the sentence is time-barred under the law of the Slovak Republic
- The criminal offence, for which the extradition is requested, is a criminal offence only under the law of the requesting state, but not under the law of the Slovak Republic

- The criminal offence, for which the extradition is requested, is solely of a political or military nature
- The criminal offence was committed in the territory of the Slovak Republic, unless, due to the specific circumstances of the commission of the offence, priority should be given to the criminal prosecution in the requesting state, for reasons of establishment of the facts, the degree of punishment or the enforcement of the sentence
- The person has already been finally convicted or released by a Slovak court for the offence, for which the extradition is requested
- The person, whose extradition is requested would not, under the law of the Slovak Republic, be considered criminally responsible at the time of the commission of the offence, or there are other factors excluding his criminal responsibility

Pursuant to section 510 of the Code of Criminal Procedure, the extradition of a person abroad shall be permitted by the Minister of Justice; he/she shall not permit the extradition, if a regional court or the Supreme Court decided pursuant to section 509 that the extradition was inadmissible.

79. The issue of the immunity of state representatives in the context of implementation of article 27 of the Rome Statute is not explicitly solved by the internal law of the Slovak Republic. It concerns in particular the articles of the Constitution, which lay down the immunity of a member of the National Council of the Slovak Republic (article 78), and also the right to refuse to make a statement on facts, which they learned in performing their functions (article 79), further the immunity of the President of the Slovak Republic (article 107), judges of the Constitutional Court (article 136), or the conditioning of criminal prosecution and imprisonment of judges and the General Attorney of the Slovak Republic by consent of the Constitutional Court of the Slovak Republic (article 136, paragraph 3). *De constitutione lata*, the National Council of the Slovak Republic itself decides on the consent to criminal prosecution or imprisonment of a member of the National Council of the Slovak Republic; in the case of judges of the Constitutional Court of the Slovak Republic, judges of general courts and the General Attorney, the consent to criminal prosecution or imprisonment is given by the Constitutional Court of the Slovak Republic. In compliance with article 1, paragraph 2 of the Constitution of the Slovak Republic, however, it is the duty of the respective bodies to proceed in compliance with international legal commitments of the Slovak Republic. In the case of the commission of a crime falling under the jurisdiction of the International Criminal Court, they should express their consent to criminal prosecution. In the event that the National Council of the Slovak Republic (or the Constitutional Court of the Slovak Republic) proceeded in compliance with article 1, paragraph 2 of the Constitution of the Slovak Republic, i.e. if in a particular case it expressed its consent to criminal prosecution of a person protected by the immunity, no need of constitutional legal regulation of such issue would separately occur.

80. A different situation would occur in the case of the President of the Slovak Republic. Pursuant to the valid wording of article 107 of the Constitution of the Slovak Republic, the president can be prosecuted solely for a wilful violation of the Constitution or for high treason. The decision on taking action is made by the National Council of the Slovak Republic by three-fifths majority of votes of all members of the parliament. The action is filed by the National Council of the Slovak Republic with the Constitutional Court of the Slovak Republic, which will make decision on it in the plenum. Taking into account the character of criminal offences falling under the jurisdiction of the International Criminal Court, with the objective to protect the basic rights and freedoms (which is the content of Chapter Two of the Constitution), it is very probable that in the event that the President of the Slovak Republic committed any activity, which fulfils the body of any of the criminal

offences in the jurisdiction of the International Criminal Court including torture and other cruel, inhuman or humiliating treatment or punishment, it would be possible to prosecute him criminally for the wilful violation of the Constitution of the Slovak Republic. Provided that the National Council of the Slovak Republic and the Constitutional Court of the Slovak Republic fulfilled their constitutional duty, their activity in meeting the conditions laid down in article 20, paragraph 3 of the Rome Statute of the International Criminal Court (the principle *ne bis in idem*) would practically exclude an intervention of the International Criminal Court.

81. As regards the members of the National Council of the Slovak Republic, their immunity is not material legal immunity excluding the wrongfulness of their activity, it is only process legal institute excluding that they are criminally prosecuted for the period of mandate execution. Pursuant to article 78, paragraph 3 of the Constitution of the Slovak Republic, a member of parliament cannot be criminally or disciplinarily prosecuted, nor imprisoned without consent of the National Council of the Slovak Republic. Pursuant to section 9, paragraph 4 of the Code of Criminal Procedure, the criminal prosecution that was suspended for the reason that it concerns a person immune from the scope of powers of the bodies acting in criminal proceedings and court, or a person for whose prosecution consent is needed and the authorised body has not given such consent, will be continued after the extinction of mandate of a member of the National Council of the Slovak Republic, function of a judge of the Constitutional Court of the Slovak Republic, function of a judge and function of the General Attorney.

82. The Slovak Republic is a contracting party to several conventions of the Council of Europe in the area of criminal law.<sup>1</sup> In this area, it has entered also into many bilateral treaties. In relation to member states of the European Union, Act No. 403/2004 Coll. on the European arrest warrant and on amendments to certain acts (the Act on European Arrest Warrant) as amended by Act No. 342/2007 Coll. shall be applied. These instruments allow judicial cooperation in the event of serious violations of Geneva Conventions of 1949 and Additional Protocols thereto of 1977.

#### **IV. Protection, recovery and reintegration (art. 6, para. 3)**

83. For the Slovak Republic, in the territory of which no armed conflict has been conducted since 1945, since the end of World War II, the case of victims of recruitment of children into the armed forces is not relevant. There are no child victims of recruitment. The Slovak Republic does not register any case when children are victims of violating the principles of the Optional Protocol.

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<sup>1</sup> European Convention on Extradition (Paris, 13 December 1957, Notice No. 549/1992 Coll.), European Convention on Mutual Assistance in Criminal Matters (Strasbourg, 20 April 1959, Notice No. 550/1992 Coll.), European Convention on the Transfer of Proceedings in Criminal Matters (Strasbourg, 15 May 1972, Notice No. 551/1992 Coll.), Convention on the Transfer of Sentenced Persons (Strasbourg, 21 March 1983, Notice No. 553/1992 Coll.), Additional Protocol to the European Convention on Extradition (Strasbourg, 15 October 1975, Notice No. 10/1997 Coll.), Second Additional Protocol to the European Convention on Extradition (Strasbourg, 17 March 1978, Notice No. 11/1997 Coll.), Additional Protocol to the European Convention on Mutual Assistance in Criminal Matters (Strasbourg, 17 March 1978, Notice No. 12/1997 Coll.), Second Additional Protocol to the European Convention on Mutual Assistance in Criminal Matters (Strasbourg, 8 November 2001, Notice No. 165/2005 Coll.), Additional Protocol to the Convention on the Transfer of Sentenced Persons (Strasbourg, 18 December 1997, it has not been published yet), European Convention on the Supervision of Conditionally Sentenced or Conditionally Released Offenders (Strasbourg, 30 November 1964, Notice No. 412/2003 Coll.).

84. The cases of integration of children in the society, reconnection of family, physical and psychological recovery of children of immigrants/refugees in the territory of the Slovak Republic are solved by, for example, the Slovak Red Cross, Slovak National Centre for Human Rights, Slovak Committee for UNICEF, Migration Office of the Ministry of Interior of the Slovak Republic, as well as non-governmental organisations.

85. The non-governmental organisations providing assistance to asylum-seekers and refugee applicants in the Slovak Republic:

- Slovak Refugee Council (Novozámocká 73, 960 01 Zvolen, e-mail: zboril@orangemail.sk) participates in the integration of refugees, who have been granted asylum in the Slovak Republic.
- Slovak Humanitarian Council (Páričkova 18, 821 08 Bratislava, e-mail: shr@changenet.sk, webpage: www.shr.sk) acts as a non-governmental, apolitical and independent community of volunteer non-profit organisations (humanitarian and charitable organisations, civil associations and foundations acting in the social area in broad terms, which provide help, services, care, advisory activities and organise various activities in favour of socially disadvantaged and handicapped people). The Office of the Slovak Humanitarian Council provides managing, methodical, coordinating and information services to volunteer organisations associated by it.
- Human Rights League (Hurbanovo nám. 5, 811 03 Bratislava, e-mail: hrl@hrl.sk, webpage: www.shr.sk) provides free legal advisory services to applicants for asylum, asylum holders, as well as to persons applying for asylum or enjoying subsidiary protection or temporary protection in the territory of the Slovak Republic. In its activity, it cooperates with the Office of the High Commissioner for Refugees (UNHCR), as well as with other organisations working with refugees, including the foreign ones (ACCORD).
- Society of Good Will People (Mäsiarska 13, 040 01 Košice, e-mail: goodwill@netkosice.sk, webpage: www.cassovia.sk/sldv) actively participates in humanitarian assistance to people, who for their permanent, in the long term unfavourable health condition, change of the statute of their position, or other social disability are not able to fully take care of themselves.
- Man in Peril, Civil Association (Svätoplukova 1, 821 09 Bratislava, e-mail: cvo@changenet.sk, webpage: www.clovekvohrozeni.sk) whose mission is to effectively help people, who suffer from consequences of natural disasters, conflicts and totalitarian regimes. Through cultural and educational events and general educational activity endeavours to inform the Slovak public on serious problems and to address it at the same time so that it, in various forms, participates in assisting people in need. The activity is concentrated in particular on the area of humanitarian aid, development aid, support of human rights and educational and information activities.
- International Organisation for Migration (IOM) (Grösslingova 1, 811 09 Bratislava, e-mail: bratislavaavr@iom.int, website: www.iom.int, www.bezpecnecestovanie.sk, www.mic.iom.sk) provides aid to migrants and State bodies in voluntary returns of foreigners to the country of origin.
- Association of Asylum Holders (Novozámocká 73, 960 01 Zvolen) is a civil association whose members are asylum holders and former asylum holders (at present the nationals of the Slovak Republic of various nationality), living in Slovakia. Main objective of the association is to support the active participation of asylum holders in the public life and to solve various problems, which asylum holders in Slovakia are facing in the process of their integration.

86. The legal system of the Slovak Republic guarantees the protection of rights and interests protected by law to all children equally, without the difference of sex, nationality, colour of skin and citizenship. It means that they are provided with social and legal protection to the same extent as to children with the citizenship of the Slovak Republic. Execution of measures of social and legal protection and social guardianship is regulated by Act No. 305/2005 Coll. on Social and Legal Protection of Children and Social Guardianship and on amendments to certain acts as amended (hereinafter referred to as “Act on Social and Legal Protection of Children”).<sup>2</sup>

87. The Act on Social and Legal Protection of Children guarantees the application of measures pursuant to the Act to each child that has habitual abode in the territory of the Slovak Republic or it stays here without being accompanied by legal representatives, relatives or a person, who is responsible for the child pursuant to the law or custom, and also to the child that is a citizen of the Slovak Republic and stays without being accompanied in the territory of other state.

88. The measures of social and legal protection of children and social guardianship shall be applied also to the child that is not a citizen of the Slovak Republic and stays in the territory of the Slovak Republic without being accompanied by a parent or other adult natural person, to whose personal care the child could be confided (hereinafter referred to as “unaccompanied minor”). Competent units of the Office of Border and Foreigner Police have usually the first contact with unaccompanied minor. Police unit finds usually an unaccompanied minor on the Slovak territory or within the groups of illegal migrants. In finding the reason and intention of crossing the state borders, the respective unit of the border and foreigner police tries to find out in particular whether the crossing of state borders is not an act under coercion of another person (abduction), whether the child does not travel to its parents to the Slovak Republic, or other state. At the same time, it immediately informs the closest body of social and legal protection of children and social guardianship on the child, even on rest days or holidays, and passes him/her to this body. Body of social and legal protection of children and social guardianship on the child takes part in searching for parents or other members of the family of the infant without escort and notifies the representative body of the country where the unaccompanied minor has its habitual abode, of the measures adopted in the interest of its return or transfer. Further, it performs the following acts:

- Requests the return or transfer to the country where the unaccompanied minor has its habitual abode, if it is obvious that it has habitual abode in a safe country and it is not covered by an international covenant (e.g. Convention on Civil Aspects of International Child Abduction), or
- Proposes to the representative body of the country where the unaccompanied minor does not have its habitual abode, and where its parent or a person personally taking care of the child are staying, to join them and notifies the measure adopted in the interest of such joining

89. In the area of protection of rights of criminal act victims in relation to their compensation, the Slovak Republic signed (14 December 2006) and subsequently ratified (12 March 2009) the European Convention on the Compensation of Victims of Violent Crimes of 24 November 1983. For the Slovak Republic, it entered into force on 1 July 2009. The conditions for the ratification of the Convention were created in particular by

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<sup>2</sup> Social and legal protection of children is a set of measures for the assurance of protection of children, which are necessary for their welfare and which respects their best interests pursuant to international conventions, upbringing and comprehensive development of children in their natural family environment, or substitute environment for children that cannot be brought up in their own families.

adopting Act No. 215/2006 Coll. on compensation of persons injured by violent crimes as amended. This Act represents part of fulfilment of international commitments of the Slovak Republic in connection with its accession to the European Union as of 1 May 2004. It transposes the Council Directive 2004/80/EC of 29 April 2004 on compensation of victims of violent crimes into the legal order of the Slovak Republic. It represents the continuity in the compensation of persons injured by violent crimes executed by the Ministry of Justice of the Slovak Republic, improves the possibility of the injured to obtain information on the possibilities of compensation, facilitates the compensation of bodily harm caused in the territory of other member state thus strengthening the position of the injured person. It also strengthens the process legal position of the injured person as it primarily regulates the process procedure without any changes of material legal regulation.

90. The Code of Criminal Procedure in Chapter Two Part One Division Seven (The Injured) specifies the term “the Injured”, the legal position thereof and specifies the possibilities of raising a claim to damage compensation, as well as the possibility of securing the claim of the injured. Division Eight (Attorney of the Involved Person and the Injured), *inter alia*, in detail specifies the legal position of the attorney of the injured party as well as his authorisations.

## V. International assistance and cooperation (art. 7, paras. 1–2)

91. In compliance with its foreign political interests, the Slovak Republic actively supports the extension of international cooperation with international criminal courts in the form of entering into cooperation treaties.

92. The Slovak Republic signed the agreement between the Slovak Republic and the United Nations on the enforcement of sentences imposed by the International Criminal Tribunal for the former Yugoslavia (hereinafter referred to as “ICTY Agreement”) in Hague on 7 April 2008. The President of the Slovak Republic ratified it on 18 August 2008; for the Slovak Republic, it entered into force on 3 November 2008. Pursuant to article 7 paragraph 4 of the Constitution of the Slovak Republic, it is an international agreement, for the performance of which an act is necessary. The acts are the Criminal Code and Code of Criminal Procedure. The Agreement is also an international agreement, which, pursuant to section 478 of the Code of Criminal Procedure takes precedence over Part Five of the Code of Criminal Procedure. The Agreement was published in the Collection of Laws of the Slovak Republic under No. 418/2008 Coll.

93. ICTY Agreement represents in the international contractual practice of the Slovak Republic the first contractual instrument, which regulates the questions of the enforcement of imprisonments on the basis of a decision of one of international courts in the territory of the Slovak Republic; it is the expression of active involvement of the Slovak Republic in a special form of cooperation within the scope of the United Nations. It regulates the conditions for the enforcement of imprisonments imposed by ICTY in the territory of the Slovak Republic, procedure, contact and particulars of the application for the take-over of the enforcement of sentence and costs, conditions of conditional discharge, pardon, the principle *ne bis in idem*, as well as the commitment of the Slovak Republic to enable the check of conditions of the enforcement of sentence by the International Committee of the Red Cross.

94. In compliance with the declared attitude of the European Union, the Slovak Republic did not enter with the United States of America a bilateral agreement (Bilateral Immunity Agreement), which in accordance with article 98, paragraph 2 of the Rome Statute of the International Criminal Court would prevent in the surrender of USA citizens,

members of military missions, for criminal prosecution before the International Criminal Court.

95. With the aim of making the cooperation of the Slovak Republic with international criminal tribunals more effective, an inter-ministerial work group for the International Criminal Court was established at the Ministry of Foreign Affairs of the Slovak Republic. Its members include representatives of the Ministries of Foreign Affairs, Justice, Interior, and Defence, as well as of the General Attorney's Office of the Slovak Republic and Presidium of the Police Corps.

96. To provide multilateral development aid, the Slovak Republic utilises multilateral organisations and institutions, in particular the system of the United Nations, the World Bank Group, European Commission and European Bank for Reconstruction and Development. The Slovak Republic considers professional organisations, funds and programmes of the UN system to be an important international tool for the support of economic and social development in the world. The Slovak Republic will continue in active cooperation with UN organisations, in particular with the specialised agencies, like for example the United Nations Development Programme (UNDP), which has a significant coordination role in the development agenda of the UN and UNICEF, which is focused on solving children's problems in terms of health, education and observance of the rights of children.

97. On 4 March 2009, the Government of the Slovak Republic approved the Medium-Term Strategy of Official Development Aid of the Slovak Republic for the period 2009 to 2013, which continues in the results of the strategy for the period of 2003 to 2008 with the same title. The strategy is the main medium-term instrument of planning the Slovak Aid. Along with Act No. 617/2007 Coll. on official development aid, it is the resource for further planning and programming documents for the following five years (separately for yearly national programmes, bilateral agreements with developing countries and strategies of aid to individual priority countries). It defines principles, objectives, intention and priorities of Slovak Aid including the territorial and sector ones. Sector priorities include the building of democratic institutions, legally consistent state, civil society, peace and social development. Slovak Aid has become an integral part and instrument of foreign policy, which is reflected in relations of the Slovak Republic with the UN, EU, OECD, relations with aid donors and receivers.

98. The priority of the Slovak Republic in the area of development aid in 2009 to 2013 is to strengthen the stability and good management of public matters, to support the economic interests and subsequently to reduce the rate of poverty and famine in developing countries through more effective and targeted humanitarian aid. In the previous years, Slovak entities executed in various countries several projects to improve life conditions of people living in extreme poverty. Many projects contribute to the support of the rights of children, whether these are projects focused on improving life conditions, health service systems, access to better health services or projects concerning the educational system.

99. The sector priority social development implies health service, assistance to disabled people, education, prevention and treatment of infectious and epidemic diseases (in particular HIV/AIDS, with emphasis on children and mothers), education of children and adults, social services, fight against drugs. The above is reflected also in the National Programme of Official Development Aid of the Slovak Republic for 2009.

100. The projects, Aid to Victims of Pressure Mines, Modernisation of the Technological Infrastructure for Increasing the Safety of Sweeping Operations, Reconstruction of Schools in Bosnia and Herzegovina, in Afghanistan and in Kenya, Prevention, Nutrition and Complex Support to Children and Families affected with HIV/AIDS in Kenya and in Cambodia, and other projects contributed to the protection of the rights of the child.

101. Since 2004, over 60 projects of Slovak Aid have been focused on the support of democracy and human rights in countries like Afghanistan, Byelorussia, Bosnia and Herzegovina, Kenya, Kyrgyzstan, Mongolia, Montenegro, Mozambique, Serbia and Ukraine, in the total amount of about \$8 million. Of those, over 30 projects concerned the rights of children.

102. While serving as a non-permanent member of the United Nations Security Council in 2006–2007, the Slovak Republic participated in the work of the Working Group on Children and Armed Conflict, which was established in 2005. In 2007, representatives of the Ministry of Foreign Affairs took part in the ministerial conference Let us Free Children from War, held in Paris, which adopted a final declaration and the Paris Commitments whose objective is to protect children from unlawful recruitment or use by the armed forces and armed groups. Another contribution to support the principles of the Optional Protocol is represented by the discussion at the level of ministers on the topic, Reform of the Security Sector, which took place within the framework chairmanship of the Slovak Republic in the Security Council in February 2007. The problem of security sector reform is directly related to the protection of children from forced recruitment and violation of the rights of the child by armed forces and security corps.

103. One of the objectives of the development aid of the Slovak Republic pursuant to Act No. 617/2007 Coll. on official development aid is to ensure peace and security in the world, in particular by strengthening democracy, and legally consistent State and human rights. So far, the Slovak Republic has not participated in the projects of official development aid regarding the direct participation of children in armed conflicts; this problem is only marginal to the official development aid of the Slovak Republic.

104. The Slovak Republic fully supports and implements the already existing instruments and agreements of the UN and EU regarding the ban on sale and export of small and light weapons. This area is regulated by legal and administrative measures, which provide the control of production, ownership, designation and trade with small and light weapons. The Slovak Republic ensures efficient control of production and trade in domestic and foreign weapons in order to prevent illegal production, trading and holding by unauthorised persons.

105. The Slovak Republic supports all efforts concerning the application of principles of the international law on armed conflict and international humanitarian law. In this connection, it supports also the initiative of the Swiss Confederation and International Committee of the Red Cross which concerns the Montreux Document on Pertinent International Legal Obligations and Good Practices for States related to Operations of Private Military and Security Companies during Armed Conflict. Despite the fact that the Montreux Document is not a legally binding document and it only declares the need of observance of principles of the international humanitarian law, the Slovak Republic considers it to be a significant contribution to the enforcement of humanity principles, whose main objective is to assist in minimising the suffering of victims of war conflicts.

106. In December 2003, the European Union (EU) adopted the document, Guidelines on Children and Armed Conflict, which has been updated continuously. The EU procedure itself consists in monitoring the situation in third countries and in the EU countries, reporting on the situation in the countries and evaluation of the reports, which will allow the EU to use some tools listed in the document, for example the *démarches*, in order to reach an agreement on situation improvement. The EU aims to raise the awareness of this issue by giving more prominence to EU actions in this field, both within the EU and towards third parties. The EU undertakes to address the short, medium and long term impact of armed conflict on children in an effective and comprehensive manner, making use of the variety of tools at its disposal, and building on past and ongoing activities. Regular monitoring, reporting and assessments form the basis for the identification of

situations where EU action is called for. The Slovak Republic actively participates in the implementation of the Guidelines.

## VI. Other legal provisions (art. 5)

107. The Slovak Republic fulfils the international commitments resulting from the international treaties, which are binding on it and whose provisions represent integral part of the legal order of the Slovak Republic. In relation to the Optional Protocol, this concerns in particular the following international treaties in the area of the law of armed conflict and humanitarian law:

- Geneva Convention for the Amelioration of the Condition of the Wounded and Sick in Armed Forces in the Field (Geneva, 12 August 1949), published under No. 65/1954 Coll.
- Geneva Convention for the Amelioration of the Condition of Wounded, Sick and Shipwrecked Members of Armed Forces at Sea (Geneva, 12 August 1949), published under No. 65/1954 Coll.
- Geneva Convention relative to the Treatment of Prisoners of War (Geneva, 12 August 1949), published under No. 65/1954 Coll.
- Geneva Convention relative to the Protection of Civilian Persons in Time of War (Geneva, 12 August 1949), published under No. 65/1954 Coll.
- Protocol Additional I to the Geneva Conventions of 12 August 1949, and relating to the Protection of Victims of International Armed Conflicts (Geneva, 8 June 1977), published under No. 168/91 Coll.
- Protocol Additional II to the Geneva Conventions of 12 August 1949, and relating to the Protection of Victims of Non-International Armed Conflicts (Geneva, 8 June 1977), published under No. 168/91 Coll.
- Protocol Additional III to the Geneva Conventions of 12 August 1949, and relating to the Adoption of an Additional Distinctive Emblem, published under No. 375/2007 Coll.
- Agreement on the Privileges and Immunities of the International Criminal Court (New York, 9 September 2004), published under No. 418/2004 Coll.

The Slovak Republic is a contracting party to:

- The ILO Convention No. 182 on the Prohibition and Immediate Action for the Elimination of the Worst Forms of Child Labour (1999) (Geneva, 17 June 1999) published under No. 38/2001 Coll., which in article 1 lays down the duty of the contracting parties to take immediate and effective measures to secure the prohibition and elimination of the worst forms of child labour as a matter of urgency. In accordance with article 3, the term “worst forms of child labour” comprises also “forced or compulsory labour, including forced or compulsory recruitment of children for use in armed conflict”.
- The Rome Statute of the International Criminal Court (Rome, 17 July 1998), published under No. 333/2002 Coll., which in its article 8 considers as war crimes, inter alia, conscripting or enlisting children under the age of fifteen years into the national armed forces or using them to participate actively in hostilities, regardless of whether it was committed at the time of an international armed conflict or an armed conflict not of an international character. Provisions of this convention

provide higher rate of protection of the rights of the child in the given area than the Optional Protocol.

- Agreements between the Government of the Slovak Republic, the Office of the United Nations High Commissioner for Refugees (UNHCR) and the International Organisation for Migration (IOM) on the humanitarian transfer of refugees needing international protection through the Slovak Republic (Bratislava, 20 July 2009), published under No. 301/2009 Coll. The agreement specifies conditions for the humanitarian transfer of 101 Palestinian refugees and persons under the protection of the UNHCR (mostly families or women with children) from Iraq, their temporary location in the territory of the Slovak Republic in an asylum facility and subsequent transmigration to third countries. The agreement regulates the conditions of treatment for such persons, their legal position, necessary health care, provision of social services, their transportation as well as the method of financing the activities expected by this agreement.

## Annexes

The initial report of the Slovak Republic submitted to the Committee on the Rights of the Child includes the following annexes:

- Act No. 570/2005 Coll. on liability for enlistment and on amendments to certain acts (relevant parts)
  - Act No. 346/2005 Coll. on state service of professional soldiers of the Armed Forces of the Slovak Republic and on amendments to certain acts (relevant parts)
  - Selected provisions of Act No. 564/2001 Coll. on the public defender of rights as amended
  - Act No. 569/2005 Coll. on alternative service at the time of war and state of war as amended (relevant parts)
  - Slovak-English text of selected provisions of Act No. 300/2005 Coll. Criminal Code as amended, Act No. 301/2005 Coll. Code of Criminal Procedure as amended and other acts implementing the standards of the international humanitarian law into the law of the Slovak Republic (B. Kadlečík, Ministry of Justice of the Slovak Republic, Bratislava 2008)
  - Study on the implementation and dissemination of the international humanitarian law in Slovakia (J. Králik, B. Kadlečík, Slovak Red Cross, Bratislava 2008)
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