

## **Update of the EU GUIDELINES ON CHILDREN AND ARMED CONFLICT**

### **I. CHILDREN AND ARMED CONFLICT**

1. In the past decade alone, armed conflicts are estimated to have claimed the lives of over two million children and physically maimed six million more. Conflict deprives children of parents, care-givers, basic social services, health care and education. There are some twenty million displaced and refugee children, as well as one million orphans, while others are held hostage, abducted or trafficked. Systems of birth registration and juvenile justice systems collapse. At any given time, there are estimated to be at least 300,000 child soldiers participating in conflicts.
2. Children have special short and long term post-conflict needs, such as for tracing of family members, redress and social reintegration, psycho-social rehabilitation programmes, participation in disarmament, demobilisation and reintegration programmes as well as within transitional justice frameworks. In this regard, the EU welcomes the creation of a follow-up forum to the Paris Commitments, which focuses on coordinating and facilitating international support for such programmes.
3. In many situations, there remains a climate of impunity for those committing crimes against children, as proscribed by international humanitarian law and the Rome Statute of the International Criminal Court. The EU underlines the fundamental role of international criminal jurisdictions in fighting impunity and addressing the relevant violations of international law concerning the illegal use and recruitment of child soldiers.
4. The Convention on the Rights of the Child (CRC) is almost universally ratified, but by no means universally applied. Particularly in situations of armed conflict, children suffer disproportionately, in a variety of ways, and with long lasting effects. The impact of armed conflict on future generations may sow the seeds for conflicts to continue or to re-emerge. The Optional Protocol to the CRC on the involvement of children in armed conflict is aimed at countering this situation.

5. The EU welcomes that important international mechanisms have been established dealing with children and armed conflict, in particular, the Special Representative of the UN Secretary General for Children and Armed Conflict, and the Security Council Working Group on Children and Armed Conflict. Consequently, the EU and its member States shall take into consideration and, where appropriate, coordinate their action with these mechanisms, in a view to maximise impact of their respective interventions.

## **II. PURPOSE**

6. Promotion and protection of the rights of the child is a priority of the EU's human rights policy. The European Union (EU) considers it of critical importance to address the issue of children and armed conflict not only because children are suffering in the present and will shape the future but because they have inherent and inalienable rights, as set out in the CRC, its Optional Protocols and other international and regional human rights instruments. 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 in its relations with third parties.
7. 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 (overview of EU actions in Annex I). The EU's objective is to influence third countries and non state actors to implement international and regional human rights norms, standards and instruments, as well as international humanitarian law (as listed in Annex II) and to take effective measures to protect children from the effects of armed conflict, to end the use of children in armed forces and armed groups, and to end impunity for crimes against children. The EU recognises the importance of ensuring coordination and continuity between the various policies and actions targeting the situation of children affected by armed conflict in the various policy areas, including CFSP/ESDP, external assistance and humanitarian aid.

### III. PRINCIPLES

8. The EU is founded on the principles of liberty, democracy, respect for human rights and fundamental freedoms, and the rule of law. These principles are common to the Member States. Respect for human rights features among the key objectives of the EU's Common Foreign and Security Policy (CFSP), which includes the European Security and Defense Policy (ESDP). Respect for human rights is also part of the Community's policies regarding trade and development co-operation and humanitarian assistance.
9. The promotion and protection of the rights of all children is a priority concern of the EU and its Member States. In its work to ensure the protection of children affected by armed conflict, the EU is guided by relevant international and regional norms and standards on human rights and humanitarian law including, inter alia, those contained in Annex II.
10. The EU supports the work of the relevant actors, in particular the UN Secretary General, the Special Representative of the Secretary General for Children and Armed Conflict, the Working Group of the Security Council on Children and Armed Conflict, UNICEF, UNIFEM, OHCHR, UNHCR, UNDP, ILO, the Committee on the Rights of the Child, the Human Rights Committee, the Human Rights Council, the Third Committee, the Council of Europe, OSCE/ODIHR as well as UN Special Mechanisms and other relevant actors such as the ICRC, the Human Security Network and civil society organisations. The EU also supports the work of child protection networks and Task Forces monitoring UN Resolution 1612 on the ground. The EU will pro-actively contribute and work with these actors to ensure that the existing international safeguards to the rights of the child are strengthened and effectively implemented.

## IV. GUIDELINES

Regular monitoring, reporting and assessments form the basis for the identification of situations where EU action is called for. Where EU-led crisis management operations are concerned, decision making will proceed on a case-by-case basis, bearing in mind the potential mandate for the specific action and the means and capabilities at the disposal of the EU.

### A. Monitoring and reporting

11. In their periodic reports and where relevant, and in full knowledge, and in coordination with, the reporting and monitoring system of the UN established through UNSC resolutions 1539 (2004) and 1612 (2005), the EU Heads of Mission, Heads of Mission of civilian operations, EU Military Commanders (through the chain of command) as well as the EU Special Representatives will include an analysis of the effects of conflict or looming conflict on children. These reports should address in particular violations and abuses against children, recruitment and deployment of children by armies and armed groups, killing and maiming of children, attacks against schools and hospitals, blockage of humanitarian access, sexual and gender-based violence against children, abduction of children and the measures taken to combat them by the parties in case. While these six violations provide a primary focus, they do not exclude monitoring and reporting of, and response to, other violations committed against children as relevant in each country situation. They will include in their normal reporting periodic evaluation of the effect and impact of EU actions on children in conflict situations where appropriate. Where relevant, Heads of Mission may prepare *ad hoc* reports on country situations, including an update on the implementation of relevant country strategies which may cover also these issues. Lessons learned from EU crisis management operations may form another important source of information for the competent working parties provided they are not classified.

12. The Commission will draw the attention of the Council and Member States to relevant reporting in this area and provide further information, where appropriate and necessary, on Community-funded projects aimed at children and armed conflict and post-conflict rehabilitation. Member States will feed into this overview by providing information on bilateral projects in this area.

**B. Assessment and recommendations for action**

13. The Council Working Group on Human Rights (COHOM) in close co-ordination with other relevant working parties will on the basis of the above mentioned reports and other relevant information, such as reports and recommendations from the UNSG (including the list of parties to armed conflict that recruit or use children as annexed to the annual report to the UN Security Council on children and armed conflict), the Special Representative of the Secretary General for Children and Armed Conflict, the UN Security Council working group on Children and armed conflict, UNICEF, UN Special Mechanisms and human rights Treaty Bodies as well as non-governmental organisations, at regular intervals identify situations where EU actions are called upon, in particular where alarming situations arise which call for immediate attention, and make recommendations for such action to the appropriate level (PSC/Coreper/Council).

**C. EU tools for action in relations with third countries**

The EU has a variety of tools for action at its disposal. The EU will build on existing initiatives in order to consolidate, strengthen and advance EU actions for children affected by armed conflict (as in Annex I). In addition, the tools at the EU's disposal include, inter alia, the following:

14. Political dialogue: The human rights component of the political dialogue at all levels between the EU and third countries and regional organisations shall, where relevant, include all aspects of the rights and well being of the child during pre-conflict, conflict and post-conflict situations.

15. Démarches: EU will make démarches and issue public statements urging relevant third countries to take effective measures to ensure protection of children from the effects of armed conflict, to end the use of children in armed forces and armed groups, and to end impunity. The EU Special Representatives and Heads of Mission will be tasked to continue to address the matter with non state actors where relevant. Where appropriate, the EU will also react to positive developments that have taken place.
16. Multilateral co-operation: the Community is engaged in funding projects relating to children and armed conflict in several fields, in particular for Disarmament, Demobilisation, Reintegration and Rehabilitation (DDRR) and through humanitarian assistance. The Commission will identify possibilities for extending such support, for example in the context of its Country Strategy Papers and its Mid Term Reviews, paying specific attention to the situations in priority countries. The Commission will also specifically consider the link between relief, rehabilitation and development. In this continuum, the Commission has recognised the importance of support to education in emergencies, which has to be integrated into comprehensive longer-term policies. Member States will equally seek to reflect priorities set out in these guidelines in their bilateral co-operation projects.
17. Crisis management operations: during the planning process, the question of protection of children should be adequately addressed. In countries where the EU is engaged with crisis management operations, and bearing in mind the mandate of the operation and the means and capabilities at the disposal of the EU, the operational planning should take into account, as appropriate, the specific needs of children, bearing in mind the particular vulnerability of the girl child. In pursuit of the relevant UNSC resolutions, the EU will give special attention to the protection, welfare and rights of children in armed conflict when taking action aimed at maintaining peace and security.

18. Making use of the various tools at its disposal, the EU will seek to ensure that specific needs of children will be taken into account in early-warning and preventive approaches as well as actual conflict situations, peace negotiations, peace agreements, ensuring that crimes committed against children be excluded from all amnesties, post-conflict phases of reconstruction, rehabilitation, reintegration and long-term development. The EU will seek to ensure that the local community, including children, is involved in the peace process. In this context, the EU will take advantage of and build on experience gained within the UN system and regional organisations. Girls and those children, who are refugees, displaced, separated, abducted, affected by HIV/AIDS, disabled, subject to sexual exploitation or in detention are particularly vulnerable.
19. Training: the co-ordinated EU Training Concept in the field of crisis management should take account of the implications of these guidelines. In light of this, the EU recommends training in child protection.
20. Other measures: the EU might consider making use of other tools at its disposal where appropriate, such as the imposition of targeted measures. When EU agreements with third countries are approaching renewal the EU will consider carefully the country's record on respect for children's rights, with particular reference to children affected by armed conflict.

## **V. IMPLEMENTATION AND FOLLOW-UP**

21. COHOM is furthermore requested to:
  - a) oversee the implementation of EU action taken in accordance with these guidelines and to that end develop modalities to render paragraph 12 operational, as well as to oversee the implementation of relevant country strategies. In this context, reference is made to the 25 June 2001 General Affairs Council's conclusions, which recalled that the Community actions should be consistent with the EU's action as a whole;
  - b) review and update on a regular basis the EU list of priority countries;

- c) promote and oversee mainstreaming of the issue of children and armed conflict throughout all relevant EU policies and actions, as well as to co-operate with other EU bodies in the area of security and development to comprehensively protect the rights of children;
  - d) undertake ongoing review of the implementation of these guidelines, in close co-ordination with the relevant working groups, Special Representatives, Heads of Mission, Heads of Mission of civilian operations and EU Military Commanders (through the chain of command);
  - e) continue to examine, as appropriate, further ways of co-operation with the UN and other international and regional intergovernmental organisations, NGOs as well as corporate actors in this area;
  - f) report to PSC on an annual basis on progress made towards fulfilling the objectives set out in these guidelines;
  - g) submit an evaluation of these guidelines to the Council with recommendations for improvements or updates as and when appropriate;
  - h) On that basis, consider establishing a focal point (for instance a special group of experts or Special Representative) to ensure the future implementation of these guidelines.
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**Non-exhaustive list of international norms, standards and principles the EU may invoke in contacts with Third Countries concerning children affected by armed conflict**

**I. UN human rights instruments**

a. Treaties and protocols

- Convention on the Rights of the Child, 1989;
- Optional Protocol II to the Convention on the Rights of the Child on the involvement of children in armed conflict, 2002;
- Optional Protocol I to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography, 2002;
- ILO Convention 182 concerning the Prohibition and Immediate Action for the Elimination of the Worst Forms of Child Labour, 1999;

b. Security Council Resolutions

- Security Council Resolution 1539 (2004, Children and armed conflicts)
- Security Council Resolution 1612 (2005, Children and armed conflicts)

c. Resolutions by the General Assembly related to Children and Armed Conflict

- Resolutions on the rights of the child introduced by the EU, jointly with GRULAC, in the Human Rights Council and Third Committee of UN General Assembly on a yearly basis. These resolutions contain paragraphs on children and armed conflict.

## **II. International Humanitarian Law, Refugees and IDPs**

- Geneva Convention relative to the Treatment of Prisoners of War, 1949;
- Geneva Convention relative to the Protection of Civilian Persons in Time of War, 1949;
- Protocol Additional to the Geneva Conventions of 12 August 1949, and Relating to the Protection of Victims of International Armed Conflicts (Protocol I), 1978;
- Protocol Additional to the Geneva Conventions of 12 August 1949, and Relating to the Protection of Victims of Non-International Armed Conflicts (Protocol II), 1977;
- Convention relating to the Status of Refugees, 1951;
- Protocol relating to the Status of Refugees, 1967;
- Guiding Principles on Internal Displacement, 1998.

## **III. International Criminal Law**

- Rome Statute of the International Criminal Court, 2002;
- Amended Statute of the International Tribunal for the Prosecution of Persons Responsible for Serious Violations of International Humanitarian Law Committed in the Territory of the Former Yugoslavia since 1991, 1993 (as amended in 1998, 2000, 2002);
- Statute of the International Criminal Tribunal for Rwanda, 1994.
- Statute of the International Tribunal for Sierra Leone

## **IV. Other relevant international principles, guidelines and normative instruments**

- The Paris Commitments to Protect Children from Unlawful Recruitment or use by Armed Forces or Armed Groups adopted on 6 February 2007.
- The Paris Principles: Principles and Guidelines on Children Associated with Armed Forces or Armed Groups adopted on 6 February 2007.
- Report of the Special Representative of the Secretary-General for Children and Armed Conflict, Item 68 (a) on the provisional agenda of the 2007 UN General Assembly (A/62/228).

- Enhancing the EU Response to Children Affected by Armed Conflict With particular reference to development policy, Study for the Slovenian EU Presidency prepared by Andrew Sherriff in December 2007.
- “Will you listen?” Young voices from conflict zones prepared in 2007 by the UNICEF Office of the Special Representative of the Secretary General for Children and Armed Conflict, UNICEF, Global Youth Action Network, UNFPA, et al.

## **V. Regional instruments**

- African Charter on the Rights and Welfare of the Child, 1990;
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**EU Actions in the field of Children and Armed Conflict (INDICATIVE)****a. CFSP Instruments**

- Council Conclusions of 10 December 2002 (doc. 15138/02, page 9).
- Council conclusions on the biennial review of the EU Guidelines on Children & Armed Conflict of 12 December 2005 (doc. 14960/05, page 15).
- Council Conclusions on Children in External Action, May 2008.
- EU guidelines on torture and other cruel, inhuman or degrading treatment or punishment (doc. 7369/01) and working paper to implement the guidelines (doc. 15437/02).
- European Union Guidelines on the Death Penalty (doc. 9199/98).
- European Union Guidelines on Human Rights Dialogues (doc. 14469/01).
- EU Guidelines for the promotion and protection of the rights of the child adopted on 10 December 2007.
- Implementation Strategy for Guidelines on Children and Armed Conflict adopted on 25 April 2006 (doc. 8285/1/06 REV 1).
- Common Positions on human rights and good governance in Africa (doc. 98/350/CFSP).
- Common Positions on Rwanda, Somalia, Sierra Leone, Zimbabwe, DRC, Nigeria, Liberia, Angola, Cuba (including the imposition of targeted sanctions in some of these cases).
- Council Common Position 2003/444/CFSP of 16 June 2003 in the International Criminal Court, OJ L 150, 18.06.2003, p. 67.
- Joint Actions (DRC, South Ossetia, Bosnia Herzegovina, various special representatives), and Common Strategies (Russia, Ukraine, Mediterranean region).
- EU Programme for Preventing and Combating Illicit Trafficking in Conventional Arms of 26 June 1997.
- EU Code of Conduct on Arms Export adopted on 8 June 1998. Ongoing work to introduce EU-wide controls on the exports of paramilitary equipment.
- Common Position on conflict diamonds and Council Regulation implementing the Kimberley Process certification scheme for the international trade in rough diamonds (doc. 15328/02).

## b. Crisis management (ESDP)

- Council Conclusions on Checklist for integration of the protection of children affected by armed conflict into ESDP
- Council Conclusions on ESDP of 14 May 2007.
- Council conclusions concerning the declaration by the EU and the UN on cooperation between the two in crisis management (doc. 12875/03).
- Council Conclusions of 21 July 2003 on co-operation between the EU and the UN on crisis management: protection of civilians in EU-led crisis management operations (doc. 11439/03).
- Draft guidelines on protection of civilians in EU-led crisis management operations (doc. 14805/03).
- Comprehensive EU concept for missions in the field of rule of law in crisis management, including annexes (doc. 9792/03).
- Implementation of the EU programme for the Prevention of Violent Conflicts (doc. 10680/03). This programme sets out the various EU initiatives undertaken in the context of conflict prevention, including training of officials.
- Harmonisation of training for EU civilian aspects of crisis management and recruiting (doc. 11675/1/03) and Common Criteria for training for EU aspects of civilian aspects of management (doc. 15310/03).
- The EC has contributed to increase the UN capabilities in areas such as rapid deployment, training and DDDR. The Commission and the Council Secretariat's Policy Unit have also developed "conflict indicators" (watch lists of countries in difficult situations). One programme example is the co-operation with the African Union in order to improve its capacity building on the peaceful solution of conflicts and desk to desk co-operation with partner countries covering specific sectors such as illegal exports of timber and water resources.
- General review of the Implementation of the Checklist for the Integration of the Protection of Children affected by Armed Conflict into ESDP Operations (doc. 9693/08).
- EU Concept for support to Disarmament, Demobilisation and Reintegration adopted on 14 December 2006.
- Mainstreaming Human Rights and Gender into European Security and Defence Policy – Compilation of relevant documents of 29 June 2007 (doc. 11359/07).

- Civcom advice on the Checklist for the Integration of the protection of children affected by armed conflict into ESDP operations given on 29 May 2006 (doc. 9877/06).
- Joint statement on UN-EU cooperation in Crisis Management signed in Berlin on 7 June 2007.

c. Community instruments (development co-operation, trade, humanitarian assistance)

- Council Resolution on Corporate Social Responsibility (doc. 5049/03).
- Various Trade and Co-operation Agreements, in particular the ACP-EU “Cotonou” Partnership Agreement, contain specific paragraphs on children, conflict prevention, human rights.
- Assistance and protection of vulnerable children is seen in the wider context of poverty eradication, therefore, in the framework of EC development cooperation. Children are an important focal group of external aid, in particular in sectoral policies such as education and health. Numerous child-related activities are funded by the EC through ECHO, EDF, EIDHR.
- Assistance and protection of children involved in armed conflicts is channelled through a number of Commission programmes. The promotion of children’s rights was one of the priorities for funding under the European Initiative for Human Rights and Democracy in 2001, was mainstreamed in funding for the period 2002-2004, and is now retained in the new European Instrument for Democracy and Human Rights.
- In accordance with the European Consensus on Humanitarian Aid, which recognises the particular vulnerabilities of children in humanitarian crises, the Commission is committed to pay special attention to them and to address their specific needs. Examples of humanitarian operations with a child component supported by the Commission include: demobilisation, rehabilitation and reintegration projects (Uganda), health and nutrition projects (Sudan, Colombia, Palestine), psychosocial support (Sierra Leone, Sudan, West Bank, Gaza Strip and Lebanon), funding of schools in emergency camps for displaced persons (DRC, Sudan, Sierra Leone, among others), family tracing and reunification (Colombia).
- ECHO also funded research and advocacy activities of Save the Children, Belgian Red Cross and others and supports UNICEF in strengthening its capacities to effectively deliver on its commitments for children in emergencies in the area of child protection.
- Commission Communication Towards an EU Strategy on the Rights of the Child of 7 July 2006 (COM(2006) 367 final).

- Summary of CAAC-Related EU Projects prepared by the European Commission (non paper).
- Commission Communication “A Special Place for Children in European Union External Action” and attached “Action Plan on Children’s Rights in EU External Action” and “Staff Working Paper on Children in Situations of Crisis and Emergency”, adopted on 6 February 2008.

d. European Parliament

- Resolution on children and armed conflict adopted by the EU-ACP Joint Parliamentary Assembly , June 2003.
- Annual Human Rights reports for the years 2004, 2005, 2006, 2007.
- European Parliament resolution on the situation of women in armed conflicts and their role in the reconstruction and democratic process in post-conflict countries (doc. 2005/2215(INI)).
- European Parliament resolution on the exploitation of children in developing countries, with a special focus on child labour (doc. 2005/2004(INI)).
- Report on the European Parliament hearing on an EU Strategy for Children’s Rights held on 17 April 2007 in Brussels.
- Resolution on human rights dialogues and consultations on human rights with third countries adopted on 6 September 2007.

