



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

Initial reports of States parties due in 2004

Democratic Republic of the Congo\*

[Received 21 January 2009]

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## Main abbreviations and acronyms

AASD	Action d'aide sanitaire et de développement aux plus démunis [Health Aid Action for the Most Deprived]
AFDL	Alliance des forces démocratiques pour la libération du Congo [Alliance of Democratic Forces for the Liberation of the Congo]
APEE	Action pour la protection et l'encadrement de l'enfant [Action for Child Protection and Training]
AVREO	Association des volontaires pour la récupération des enfants orphelins, abandonnés et mal nourris [Voluntary Association for the Recovery of Orphaned, Abandoned and Malnourished Children]
BICE	Bureau international catholique de l'enfance [International Catholic Child Bureau]
BUNADER	Bureau national de démobilisation et de réinsertion [National Office for Demobilization and Reintegration]
BVES	Bureau pour volontariat au service de l'enfance et de la santé [Volunteer Office in the Service of Children and Health]
CAFF	children associated with fighting forces
CGFDR	Comité de gestion du Fonds de désarmement, démobilisation et réinsertion [Committee for the Administration of Disarmament, Demobilization and Reintegration Resources]
CNDP	Congrès national pour la défense du peuple [political party, founded 25 July 2005]
CONADER	Commission nationale de démobilisation et réinsertion [National Commission for Demobilization and Reintegration]
CRB	Croix-Rouge Belgique [Belgian Red Cross]
CTO	Centre de transit et d'orientation [Transit and Orientation Centre]
DDR	disarmament, demobilization and reintegration
DRC	Democratic Republic of the Congo
FARDC	Forces armées de la RDC [Armed Forces of the Democratic Republic of the Congo]
FAT	Famille d'accueil transitoire [temporary foster family]
FDLR	Forces démocratiques de libération du Rwanda [Democratic Forces for the Liberation of Rwanda]
FNI	Front des nationalistes intégrationnistes [Nationalist Integrationist Front]
FRPI	Front de résistance patriotique en Ituri [Patriotic Force of Resistance in Ituri]
GAM	Groupe armé Mai Mai [Mai-Mai Armed Group]

ICRC	International Committee of the Red Cross
LRA	Lord's Resistance Army
MDTF	Multi-Donor Trust Fund
MLC	Mouvement de libération du Congo [Movement for the Liberation of the Congo]
MONUC	Mission de l'ONU au Congo [United Nations Organization Mission in the Democratic Republic of the Congo]
ONDH	Observatoire national des droits de l'homme [National Human Rights Monitoring Centre]
RCD	Rassemblement congolais pour la démocratie [Congolese Rally for Democracy]
SACD	Solidarity Action for Children in Distress
SET	Structures d'encadrement transitoire ["peace villages"]
UEPN-DDR	Unité d'exécution du programme national DDR [Implementation Unit for the National DDR Programme]
UJPS	Union des jeunes patriotes sacrifiés [Union of Young Sacrificed Patriots]
UPC	Union des patriotes congolais [Union of Congolese Patriots]

## **Introduction**

1. The Democratic Republic of the Congo (DRC) has ratified the Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict, pursuant to Decree-Law No. 002/01 of 28 March 2001, published in the Official Gazette, in the special edition of September 2001. The initial report should have been submitted to the Committee on the Rights of the Child no later than 2004 pursuant to article 8 of the Protocol.
2. The Government of DRC is aware of the time which has elapsed since the ratification of the Protocol but has expressed its readiness to engage in constructive dialogue with the Committee on its commitments arising from the Convention on the Rights of the Child and the Protocol.
3. This initial report was prepared by the Inter-Ministerial Committee for the Preparation of Initial and Periodic Reports on Human Rights in DRC, pursuant to document No. CRC/OP/AC/1 of 14 November 2001, which provides guidelines regarding initial reports to be submitted by States parties in accordance with the Protocol.
4. In light of the state of war prevailing in DRC since 1996, this report presents the range of measures undertaken to strengthen child protection through the implementation of favourable constitutional, legislative, administrative and judicial provisions and through a prohibition on the involvement of children in armed conflict which has been in force since 1999.
5. This report has been organized according to the articles of the Protocol.

## **Part one General country information**

### **I. Land and People**

#### **A. Land**

6. The Democratic Republic of the Congo, a central African country, straddles the Equator. To the north lie the Central African Republic and Sudan, to the east Uganda, Rwanda, Burundi and the United Republic of Tanzania, to the south Zambia and Angola, and to the west the Atlantic Ocean, the enclave of Cabinda and the Republic of the Congo.
7. A vast country on a continental scale (2,345,409 square kilometres), the Democratic Republic of the Congo has a largely flat relief. In the centre is a basin, with an average altitude of 230 metres, covered in equatorial forest and with many extensive marshes. The central basin is bordered by staggered plateaux, except for the eastern part, which is dominated by mountains with volcanic soil with an average altitude in excess of 1,000 metres.
8. Crossed by the Equator, the Democratic Republic of the Congo has a hot, humid climate (average temperature of 25°C) and abundant, regular rainfall.

Rainfall and temperature decline towards the east. There are two seasons a year: a dry season of almost four months and a long rainy season.

9. The country has an extensive network of rivers. The Congo River, 4,700 kilometres in length, and the second biggest in the world after the Amazon in terms of flow, crosses the country from south-east to north-west before emptying into the Atlantic Ocean. The river is fed by several tributaries and is navigable over most of its length.

10. The soil and subsoil contain significant and varied agricultural and mining resources.

## **B. People**

### **Demographic characteristics**

11. In 1956 the population was estimated at 12,768,705 inhabitants. By 1960 it had increased to 14,106,666; the administrative census of 1970 gave a figure of 20,700,500, and the scientific census conducted on 1 July 1984 established the population at 30,731,000. On the basis of projections by specialized bodies, in particular the United Nations Population Fund, the population was estimated at 43,000,000 in 1995, 47,500,000 in 1999 and 52,099,000 in 2000 and 61,487,300 in 2006 (Central Bank of the Congo: Statistical Abstracts, No. 52/2005 and 2006, p. 1).

12. The Democratic Republic of the Congo is one of the most populous African countries. The age and sex structure shows a broad-based pyramid with a wide base, concave flanks and a narrow summit, reflecting a young population. In 1997, 25.9 million inhabitants were under 18. The natural population growth rate is 3.4 per cent (1990-1998) with a fertility rate of 6.4. Life expectancy at birth fell from 45 years in 1970 to 41.4 years in 2002 (United Nations Development Programme, Human Development Report 2004). According to place of residence, the population is composed as follows:

- Since 1993, a population which is 60 per cent rural against 40 per cent living in urban centres with 5,000 or more inhabitants; the degree of concentration in urban centres varies considerably from province to province;
- A low proportion of the population in urban areas in Maniema, compared with a high proportion in Kinshasa (a tenth of the entire population);
- Rapid growth of the urban population (7 to 8 per cent), the concentration of 28 per cent of the entire urban population in Kinshasa, and a high rate of emigration from rural areas;
- The uneven geographical distribution of the population — the highest population densities are in the city of Kinshasa and the provinces of Bas-Congo, Nord-Kivu, Sud-Kivu and Maniema.

### **Ethnic groups**

13. The population is divided into over 450 tribes, which can be classified in major groups, each firmly established in a particular territory. The Luba or Baluba

in south central Congo (18 per cent) outnumber the Kongo living in Bas-Congo (16.6 per cent). The north-west region is inhabited by the Mongo (13.5 per cent) and the Zande (6.1 per cent), the north-east by the Mangbetu, the Hema, the Lendu and the Alur (3.8 per cent). The east is inhabited by the Nande, the Hunde, the Bashi, the Bafulero, the Tutsi and many other ethnic groups. The Chokwe and Lunda are found along the frontier with Angola. The pygmies (less than 0.5 per cent) are found in the Équateur, Orientale, Bandundu, Nord-Kivu, Sud-Kivu and Maniema provinces.

### **Languages**

14. In the Democratic Republic of the Congo the official language is French. Some 250 languages and dialects are also in use. Of these, 90 per cent are of Bantu origin. Four languages are referred to as “national languages”, namely:

- Swahili (40 per cent) in the east, in Nord-Kivu, Sud-Kivu, Katanga, Maniema and Orientale province;
- Lingala (27.5 per cent) in Kinshasa, the capital, and the neighbouring region, and in Équateur and in Orientale province;
- Kikongo (17.8 per cent) in Bas-Congo and Bandundu;
- Chiluba (15 per cent) in the provinces of Kasai-Oriental and Kasai-Occidental.

15. It should be noted that in the northern part of the country many spoken languages belong to the Niger-Congo family (Ubangi subgroup) and the Nilo-Saharan family (central Sudanic group and Nilotic subgroup).

### **Religion**

16. The Democratic Republic of the Congo is a secular State. Nevertheless, five traditional religious denominations are present: Catholic, Kimbanguist, Protestant, Orthodox and Muslim. There are also several religious sects within the country, and some animists.

## **II. Socio-economic indicators**

### **A. Social situation**

17. The weakening of the social fabric began at the end of the 1970s. It was aggravated by a series of unfortunate events, namely the 1973 Zairianization campaign and the two outbreaks of looting in September 1991 and February 1993, in addition to the two wars of 1996-1997 and 1998-2002. The social sectors worst affected by this crisis are health, education, agriculture and the road network.

### **B. Economic situation**

18. The economy is characterized by a structural imbalance in the output of goods and services, and economic development has been patchy. From 1983 to 1989 the situation was relatively stable. Between 1990 and 1996 the country went through a period of crisis in which the main economic equilibria were disrupted, resulting in

rapid inflation and currency depreciation, a fall in output, widespread unemployment and large-scale poverty.

19. This situation, a characteristic feature of the latter years of the Second Republic, was primarily attributable to lax financial and budgetary management, together with unplanned expenditure met by printing money.

20. From May 1997 to July 1998, with the advent of the Alliance des Forces de Libération du Congo (AFDL) regime, there was a marked improvement in the principal economic indicators, particularly in terms of price levels, currency and public finances. This induced the Government to launch a new currency, the Congolese franc, which enjoyed an encouraging exchange rate against the major foreign currencies.

21. Unfortunately, since 2 August 1998 the principal economic equilibria have once again been disrupted as a result of the attack launched against the country by the Rwanda-Burundi-Uganda coalition, supported by certain multinationals, which had been joined by rebel movements. The war gave rise to hyperinflation, with serious repercussions for the purchasing power of the population, which was reduced to poverty, and also caused a significant fall in gross domestic product (GDP, 3.15 per cent). The rate of inflation was 656.8 per cent in 1996, 13.7 per cent in 1997 and 2.2 per cent in July 1998.

22. In the absence of any revival of production and as a result of the climate of war, the results achieved in 1998 were at risk. Thus, the inflation rate rose from 196.3 per cent in September 1999 to 489 per cent in December 1999. This continued until February 2001, when President Joseph Kabila came to power. He adopted vigorous economic and monetary measures and liberalized the political situation, re-launching the political negotiations known as the "Inter-Congolese Dialogue", which began in Lusaka after the ceasefire of 10 July 1999. Of particular note among these measures were the stabilization of public finances and the freeing of the exchange rate, which prompted a resumption of cooperation with the Bretton Woods institutions.

23. The Inter-Congolese Dialogue led to the signing of the Global and All-inclusive Agreement on 17 December 2002 in Pretoria, South Africa. A constitution was adopted on the basis of this political agreement and promulgated on 4 April 2003, facilitating the inauguration of a transitional Government including all the belligerent parties, the political opposition and civil society. According to information from the Central Bank of the Congo, the economic situation at the end of 2007 was as follows:

- Investments: with macro-economic fundamentals being brought under control since 2001, and the consolidation of this trend through the gradual return to peace, the investment sector has been gradually improving;
- Money supply in thousands of Congolese francs: 658,611;
- Balance of payments (in millions of dollars): exports: 5,004.44; imports: 5,382.15, i.e. a deficit of 377.71 million dollars;
- External debt: stock of debt at 30 December 2004, in millions of US\$: 10,943.3;



- Public finances, in thousands of Congolese francs:
  - Revenues: 481,296;
  - Expenditures: 347,279;
- GDP:
  - In billions of Congolese francs: 5,234.36;
  - In millions of US dollars: 10,130.76;
- GDP growth rate: 6.3 per cent;
- Inflation rate: between 1.2 and 5.7 per cent (National Institute of Statistics);
- Exchange rate: US\$ 1 = 550.27 to 560 Congolese francs;
- Per capita income: US\$ 94.0.

### III. Political situation

24. Following independence on 30 June 1960, the Democratic Republic of the Congo experienced political instability marked by secession and rebellion over much of its territory. This impelled the Congolese army to take power on 24 November 1965 under Lieutenant General Mobutu.

25. Mr. Mobutu instituted a single-party regime which lasted until 24 April 1990, when a return to a multiparty system was announced. The active forces of the country met in the Sovereign National Conference to debate the future of the nation and establish democratic institutions able to guarantee enjoyment of the fundamental rights of citizens and national development. But, against all expectations, this process of democratization took until 17 May 1997, on which date the Alliance des forces démocratiques pour la libération du Congo (AFDL) took power and neutralized the institutions which had emerged from the Sovereign National Conference.

26. A new, two-year transition was announced pending the organization of elections. But the war of 2 August 1998 overturned the entire political agenda and diverted attention until the signing of the Global and All-Inclusive Agreement and the new transitional constitution, promulgated on 4 April 2003.

27. Articles 64 and 154 of this constitution provided for a sui generis system of government, made up of political institutions and democracy-supporting institutions.

- (a) The political institutions comprised:
- A President of the Republic, whose executive authority is shared with four Vice-Presidents;
  - A transitional Government comprising the belligerents, the political opposition and civil society;
  - A bicameral Parliament: the National Assembly and the Senate;

- The courts.

(b) The democracy-supporting institutions, which had the mandate of guaranteeing neutrality and impartiality in the organization of free, democratic and transparent elections, of guaranteeing the neutrality of the media, of consolidating national unity thanks to genuine reconciliation between the Congolese, of promoting and protecting human rights and of promoting the practice of moral and republican values, comprised:

- The Independent Electoral Commission;
- The National Human Rights Monitoring Centre;
- The Media Authority;
- The Truth and Reconciliation Commission;
- The Ethics and Anti-Corruption Commission.

28. The transitional constitution had, in article 196, prescribed a duration of 24 months for the transition with an extension of six months renewable only once for the purpose of holding elections. The post-transition period is governed by the new Constitution promulgated on 18 February 2006 after having been adopted by referendum in December 2005, but the institutions set up by the transitional constitution remained operational up to the effective installation of the corresponding institutions provided for by the constitution of 18 February 2006, and executed their mandate in conformity with the provisions of the transitional constitution and led the country to the presidential, national and provincial legislative elections organized in July and November 2006 and in January and February 2007. The local elections were to be organized later.

29. The Constitution of 18 February 2006 had prescribed a highly decentralized State with central, provincial and democracy-supporting political institutions.

(a) The central institutions comprise:

- The President of the Republic;
- The bicameral Parliament: National Assembly and Senate;
- The Government, directed by a Prime Minister, the Head of Government accountable to Parliament;
- The courts and tribunals, civil and military.

(b) The provincial institutions comprise:

- The provincial Assembly;
- The provincial Government.

(c) The democracy-supporting institutions comprise: the National Independent Electoral Commission, and the Audiovisual and Communications Council. These have the mandate of guaranteeing and ensuring the regular holding of elections and of referendums, and the freedom and protection of the media and all means of mass communication.

#### IV. General legal framework for the protection of the rights of the child

30. Since the presentation of its initial report to the Committee, the Democratic Republic of the Congo has continued its efforts to strengthen the legal framework for the protection of the rights of the child. It has thus ratified new conventions, in particular:

- The Convention on the Rights of the Child (21 August 1990);
- The Optional Protocol to the Convention on the Rights of the Child on the Sale of Children, Child Prostitution and Child Pornography (12 November 2001);
- The African Charter on the Rights and Welfare of the Child (28 March 2001);
- International Labour Organization (ILO) convention 138 concerning the minimum age for admission to employment (28 March 2001);
- ILO Convention 182 concerning the prohibition and immediate action for the elimination of the worst forms of child labour (28 March 2001);
- The Rome Statute of the International Criminal Court (30 March 2002);
- The World Health Organization (WHO) Framework Convention on Tobacco Control (26 October 2005).

31. Internally, national Congolese legislation has also undergone important changes through the adoption of the following laws, which have an impact upon the protection of the rights of the child:

- The Constitution of 18 February 2006;
- Act No. 023/2002 of 18 November 2002 concerning the Military Judicial Code;
- Act No. 015/2002 of 16 October 2002 concerning the Labour Code;
- Act No. 04/024 of 12 November 2004 concerning nationality;
- Act No. 04/023 of 12 December 2004 concerning the general organization of defence and of the Congolese armed forces;
- Act No. 06/018 of 20 July 2006 amending and supplementing the Decree of 30 January 1940 concerning the Penal Code;
- Act No. 06/019 of 20 July 2006 amending and supplementing the Decree of 6 August 1959 concerning the Code of Criminal Procedure.

32. It should, moreover, be recalled that the Democratic Republic of the Congo has a monistic legal regime. International agreements and treaties to which it has acceded or which it has ratified take precedence over domestic laws. Article 215 of the Constitution of 18 February 2006 provides that: "All duly concluded treaties and agreements shall, upon publication, take precedence over legislation subject, in the case of each treaty or agreement, to its implementation by the other party."

33. Article 153 (4) of the same legal text formally provides, for the first time, for the direct application of international conventions by judicial organs, thus confirming their superior status, as it provides: “Courts and tribunals, civil and military, shall apply duly ratified international treaties, laws and regulatory enactments (...)”.

34. The Democratic Republic of the Congo also follows United Nations rules and principles with regard to the protection of the rights of the child, namely:

- The United Nations Guidelines for the Prevention of Juvenile Delinquency (the Riyadh Guidelines);
- The United Nations Standard Minimum Rules for the Administration of Juvenile Justice (the Beijing Rules);
- The United Nations Rules for the Protection of Juveniles Deprived of Their Liberty.

35. Finally, the draft Code for the Protection of the Child, which is currently in the process of being adopted by the Parliament, will undoubtedly have a positive effect upon certain laws whose provisions are not compatible with international child protection standards. This particularly applies to the Family Code and the Decree of 6 December 1950 on juvenile delinquency.

36. The Democratic Republic of the Congo has also made headway with regard to institutions. In recent years, public structures entrusted with promoting and protecting human rights have been created or strengthened, notably the National Human Rights Monitoring Centre (ONDH), provided for under article 154 of the transitional constitution of 4 April 2003, and organized by Act No. 04/019 of 30 July 2004, the Ministry of Human Rights and the National Council for Children.

37. The National Human Rights Monitoring Centre enjoyed complete political and administrative autonomy. Its mission was, specifically, to:

- Monitor the application of national and international legal rules pertaining to human rights;
- Ensure enjoyment of human rights for all persons;
- Take legal action on all violations of human rights;
- Advise complainants and assist them before competent jurisdictions.

38. It is true that the Monitoring Centre was no longer included among the democracy-supporting institutions under the new Constitution of 18 February 2006. However, the possibility cannot be ruled out that, following the presentation to Parliament of the final report on its activities, a law may be adopted to create a new national institution for human rights in line with the obligations set out under the Paris Principles. The Government is, at all events, committed to supporting that aim.

39. The missions of the Ministry of Justice and Human Rights on the human rights issue are the following:

- To promote and protect the fundamental human rights of Congolese and foreign persons residing in the territory of the Democratic Republic of the Congo and to help them to know their rights and to assert them under all circumstances;

- To examine, through appropriate mechanisms, cases of flagrant violations of human rights, without displacing the role of courts and tribunals or administrative procedures instituted by law; it intercedes with administrative and judicial authorities with a view to redressing injuries to rights of citizens;
- To act as an adviser to the Government with regard to promotion and protection of human rights. In this regard, it reviews the consistency of national law and governmental action with the international commitments assumed by the Democratic Republic of the Congo;
- To manage all activities pertaining to the promotion and protection of human rights throughout the national territory in conformity with national and international regulations concerning human rights;
- To cooperate with the United Nations, the African Union, and other international, regional and national institutions competent in the sphere of the promotion and protection of human rights.

40. In keeping with the final mission mentioned above, the Ministry of Human Rights has created the inter-ministerial technical committee entrusted with preparing initial and periodic reports on implementation of international human rights instruments to which the Democratic Republic of the Congo is party (decision No. 013/MDH/CAB/MBK0005, of 13 December 2001).

41. As part of the implementation of the Government's policy of promotion and protection of the rights of the child, the Ministry on the Status of Women and the Family created a National Council for Children in 1998. The Council was decentralized in 2003 by the creation of local councils for the promotion and protection of children's rights (decision No. MIN.AFF.SOC/CABMIN/004/2003 of 8 April 2003). These local councils in the country's communities and neighbourhoods provide a forum close at hand where violations of children's rights can be reported. They are made up of members from different walks of life: public institutions, civil society, judicial police officers, social educators, and children themselves.

## **Part two Implementation of the Protocol**

### **Article 1**

#### **Prohibition of the direct participation of minors in hostilities**

42. The Decree-Law No. 066 of 9 June 2000 providing for the demobilization and reintegration of vulnerable groups present within fighting forces prohibits the recruitment or use of children in armed forces or groups.

43. It should be highlighted that before 1996 recruitment into the armed forces was already conducted in accordance with the provisions of Law No. 81-003 of 17 July 1981 on the staff regulations for State public service personnel and the provisions of Ordinance No. 72/060 of 25 September 1972 instituting the military code of justice, both of which establish the age of recruitment as 16 years.

44. Starting from 1996, with the beginning of the war caused by the prolonged political transition, the phenomenon of children under 16 appearing as part of armed forces and armed groups began to be observed. This justified the adoption in 1999 by the General Staff of the Congolese Armed Forces, in partnership with the Ministry of Human Rights, of the administrative measures in the National Human Rights Action Plan. These measures encompassed:

- A ban on the recruitment of children;
- A ban on sending children to the front lines in the event of renewed fighting;
- The allocation of other tasks, not involving the use of weapons, to child soldiers.

45. These measures demonstrate the Government's readiness to plan for and protect children's rights, in addition to an agreement of principle promulgated by the Head of State in January 1999 on initiating the process of demobilizing child soldiers. The measures were formally announced by the Head of State on 14 June 2001, at the launch of the campaign to prevent the enlistment of minors and to promote the reintegration of demobilized child soldiers. On this occasion, it was decided that:

- The recruitment of children under 18 into fighting forces was to cease;
- The transfer of children under 18 to the front lines was to cease;
- The allocation of purely military tasks to children, including handling weapons, was to cease.

46. These administrative measures were communicated as orders to all military units and all educational and training centres. They were also the subject of a nationwide awareness-raising campaign.

47. As to the meaning of "direct participation" in legislation and in practice in the Democratic Republic of the Congo, the following should be noted:

Under Congolese legislation, direct participation is understood to be action comprising the deployment and engagement of units, particularly in the theatre of operations (article 2 (15) of Act No. 04/023 of 12 November 2004 concerning the general organization of defence and the armed forces, published in a special edition of the Official Gazette on 13 November 2004).

48. This concept is drawn in practice from the speech made by the President of the Republic at the launch of the information and training campaign on preparation for demobilization and reintegration of vulnerable groups present within the armed forces, on 14 June 2001, which defines "direct participation" as the action of sending a child to the front lines and the allocation of purely military tasks, notably the handling of weapons, to children.

49. To prevent a member of the armed forces who has not yet reached 18 from being deployed or kept in a region where hostilities are taking place, the Government has taken the following measures:

- The National Office for the Demobilization and Reintegration of Child Soldiers (BUNADER) was created through Decree No. 001/2001 of 13 January 2001;
- The Inter-Ministerial Committee to Develop Proposals and Provide Guidance in regard to Disarmament, Demobilization and Reintegration was created through Decree No. 03/041 of 18 December 2003;
- The National Commission for Disarmament and Reintegration (CONADER) was created, and its organization and functioning established, through Decree No. 03/042 of 18 December 2003;
- The National Implementation Unit for the National Disarmament, Demobilization and Reintegration Programme (UEPN-DDR) was created through Ordinance No. 07/057 of 14 July 2007.

50. Despite the adoption of these measures, there are several hindrances to their full and harmonized implementation, including the following:

- A poor understanding of the concept of “a child associated with armed forces and armed groups” on the part of military leaders has meant that the process of identifying and assessing the numbers of children in the Armed Forces of the Democratic Republic of the Congo, initiated by BUNADER between 2001 and 2003, could not be completed (Operational Framework for Children Associated with Armed Forces and Armed Groups, adopted by the Government on 7 May 2004, p. 4, I.10);
- The reluctance of certain military authorities, namely unit commanders, to release the underage members of their units, particularly the girls. This led to the issuance of the order No. 00/00225/EMG/COMDT/05 conveyed by telegram from the Chief of the General Staff of the Armed Forces of DRC (FARDC) to all units (12 May 2005) on the formal prohibition on the recruitment of children under 18 into FARDC, establishing severe penalties for any non-compliance;
- Difficulties encountered in identifying children based on their true age, due to the lack of a birth certificate or other forms of identification;
- The inaccessibility of some remote areas for CONADER and child protection agencies;
- Continued pockets of resistance in certain armed groups;
- The slow pace of administrative procedures in establishing provincial coordination structures (BUNADER, CONADER);
- The lack of sufficient financial and logistical resources for the complete implementation of the National Disarmament, Demobilization and Reintegration Programme (PN-DDR).

51. Members of armed forces under the age of 18 taken captive, whether or not they participated directly in hostilities, were granted a presidential pardon through Decree No. 084/2002 of 2 August 2002 on special measures to pardon child soldiers and other minors sentenced to capital punishment and other repressive penalties.

## Article 2

### Prohibition of compulsory recruitment

52. The Constitution of DRC stipulates under article 190 that no one shall, subject to punishment for high treason, organize military or paramilitary units or private militias or keep youths under arms.

53. Article 184 of the transitional constitution already provided that “No-one shall be recruited into the Armed Forces of the Democratic Republic of the Congo, nor shall anyone participate in wars or hostilities, unless he or she is over 18 years of age at the date of recruitment.” This is supported by the results of a survey conducted among the general staff of FARDC in several provinces during December 2007 and May 2008 by the team of the Inter-Ministerial Committee for the Preparation of Initial and Periodic Reports on Human Rights in DRC, as illustrated in the table below.

Table 1  
Age of recruitment into the Armed Forces of DRC

Province	District	Town	Question	Answer
Équateur	Nord-Ubangi	Gbadolite	Age of recruitment into the army	18 years
Katanga	Tanganyika	Kalemie	<i>Idem</i>	18 years
Kinshasa		Kinshasa	<i>Idem</i>	18 years
Maniema		Kindu	<i>Idem</i>	18 years
Orientale	Ituri	Bunia	<i>Idem</i>	18 years
Sud-Kivu		Bukavu	<i>Idem</i>	18 years

Source: Results of the survey, December 2007 and May 2008.

54. The 1999 national action plan to promote and protect human rights provided for:

- Prohibition of recruitment of children, in accordance with the United Nations Convention on the Rights of the Child;
- Prohibition of sending minors to the front in the event of renewed hostilities;
- Assignment of child soldiers to tasks not involving the direct use of weapons.

55. Article 41 (3) of Act No. 04/023 of 12 November 2004 concerning the general organization of defence and the armed forces provides that no one shall, subject to punishment for high treason, organize military or paramilitary units or private militias or keep youths under arms or for the purposes of subversion.

56. Article 7 of this Act provides that, in the event of mobilization, Congolese of either sex aged over 18 years may be conscripted under the conditions established by law.

57. Article 10 of the above-mentioned Act provides that persons aged over 50 years, women, pregnant women and women who are the non-professional caregivers for one or more children under the age of 18 years or one or more



persons over 60 years of age or with a disability requiring constant assistance may not be conscripted.

58. In line with this, article 114 of Act No. 023/02 of 18 November 2002 concerning the Military Judicial Code provides that military tribunals shall not have jurisdiction to try persons aged under 18 years.

59. The instruction from the Chief of the General Staff of FARDC mentioned in the second subparagraph under paragraph 50 should also be noted in connection with the above-mentioned provisions.

60. Conscription does not apply to persons under 18 years of age.

61. The Labour Code of DRC, which was redrafted in the light of ILO Convention 182 on the worst forms of child labour, specifically forbids recruitment into the armed forces, notably in articles 3 and 6. The use of child soldiers in armed forces and armed groups also features on the list submitted to the ILO regarding the worst forms of child labour identified by the Ministry of Employment, Labour and Social Security.

62. In determining the age of a candidate, priority is accorded to legal documents, namely civil status documents (birth certificates); in the absence of such documentation, medical expertise takes precedence, particularly dental examination.

63. Even if the age of conscription is lowered under exceptional circumstances, the age of enlistment remains fixed at 18 years.

64. In DRC, there is no conscription of persons aged under 18 years, nor is there compulsory military service.

### **Article 3**

#### **Minimum age for voluntary recruitment**

65. Concerning the minimum age for voluntary recruitment into the armed forces, when ratifying the Protocol, on 28 March 2001, DRC deposited a binding declaration with the United Nations Secretariat indicating that the minimum age for voluntary recruitment into the armed forces is 18 years. Thus, there is no voluntary recruitment of persons aged under 18 years under the terms of article 3 of the Protocol. Therefore, there are also no disaggregated data on the voluntary enlistment of children under 18 years of age into the national armed forces.

66. Regarding debates held in DRC before the adoption of the binding declaration, the following events are of note:

- The seminar on the theme of “Stopping the recruitment of children into the armed forces and armed groups in DRC” (September 1998);
- The information and training workshop on the problems concerning the demobilization and reintegration of children (Kinshasa, June 1999);
- The Pan-African Forum on the Demobilization and Reintegration of Child Soldiers convened by the Government in cooperation with the United Nations Children’s Fund (UNICEF) and other partners in Kinshasa from 6 to 10 December 1999.

67. In addition to these forums and seminars, other events of note are:
- The Lusaka Talks, which culminated in the signing of a ceasefire agreement between the Government and other belligerents;
  - The commitment to instituting a single, structured and integrated army, adopted by the belligerents during the Inter-Congolese Dialogue in Sun City.
68. In order to ensure widespread dissemination of the administrative measures undertaken to prevent the recruitment of children under 18 into armed forces and armed groups, an information and awareness-raising campaign on the demobilization and reintegration of vulnerable groups present within FARDC was launched by the President of the Republic in June 2001.
69. This campaign has been widely promoted among all military units, educational and training centres and the general public, by BUNADER from 2001 to 2003, from CONADER between 2004 and 2007 and by UEPN-DDR from 2007 to the present. Civil society (churches and non-governmental organizations (NGOs) involved in promoting and protecting the human rights of children) took part in this campaign in every province of the Democratic Republic of the Congo.
70. With regard to the minimum safeguards that the State is to maintain concerning the voluntary recruitment of persons under 18 years of age, there is no voluntary recruitment of such persons in DRC, in accordance with Act No. 04/023 of 12 December 2004 concerning the general organization of defence and the armed forces of the Democratic Republic of the Congo.
71. There are no schools or educational establishments placed under the control of the armed forces and providing military training to children under 18.

#### **Article 4**

#### **Prohibition of the recruitment of persons under 18 years of age into armed groups**

72. Despite the political talks which began in 1999 under the Lusaka Process, culminating in the Sun City Peace Agreement, bringing to an end the political and military conflict which began in 1996 with the accession to power of AFDL, some armed groups resistant to the child protection message do remain in DRC, particularly in the eastern provinces. In addition to these Congolese armed groups, foreign Ugandan and Rwandan groups also operate within the national borders.
73. Congolese armed groups include:
- (a) Katanga Province:
- Rahiya Mutomboki;
  - The Mbuyumalo Maï Maï groups;
  - Other groups operating within the Manono, Moba, Nyunzu (Kisengo), Kabalo and Kongolo territories, as well as in the areas of Bendera, Wimbi and Nyemba, located in Nord-Katanga (Tanganyika district).

- 
- (b) Maniema Province:
- Rahiya Mutomboki in the territory of Kabambare.
- (c) Orientale Province, Ituri district:
- The National Integrationist Front (FNI), led by Peter Karim, in the territory of Djugu, Walendu Pitsi sector, Lalou area, chiefdom of Walendu Watsi, more precisely in the Katanga forest;
  - The Patriotic Force of Resistance in Ituri (FRPI), led by Cobra Matata, in the territory from Irumu to Cheyi Geti and other neighbouring areas;
  - The Congolese Revolutionary Movement (MRC), [Mouvement Révolutionnaire Congolais].
- (d) Nord-Kivu Province:
- The Congrès national pour la défense du peuple (CNDP), led by Laurent Nkunda, operating in the territories of Masisi and Rutshuru;
  - The Coalition of Congolese Patriotic Resistance — Popular Armed Forces (PARECO-FAP) in the territory of Lubero;
  - The Maï Maï group;
  - Maï Maï Mongol;
  - The Union of Young Sacrificed Patriots (UJPS).
- (e) Sud-Kivu Province:
- Kalambayi Maï Maï;
  - Rutambuka Maï Maï;
  - The Federal Republican Forces (FRF) group (led by Bisogo and Makanika);
  - The Zabuloni group;
  - The Yakutumba group (Maï Maï Armed Group, GAM);
  - Rahiya Mutomboki;
  - Shabunda Maï Maï;
  - PARECO Sud-Kivu;
  - Mwenga-Itombwe Maï Maï;
  - Kabare Walungu-Luhinja-Luhindi Maï Maï;
  - Maï Maï groups led by Alexandre Mwami and Ndagano in Shabunda, Walungu and Mwenga (Conference for Peace, Security and Development in North and South Kivu, Final Report, pp. 13 and 14).
74. Foreign groups include:
- (a) The Lord's Resistance Army (LRA) on the border with Uganda;

(b) The Democratic Forces for the Liberation of Rwanda (FDLR) and the Interahamwe in the territories of Shabunda, Walungu, Mwenga and Kalehe in Sud-Kivu province.

75. A series of talks has taken place since 1999:

- 1999-2002: negotiations between the Government and the political-military groups of the Movement for the Liberation of the Congo (MLC) and the different factions of the Congolese Rally for Democracy (RCD), to which the political opposition was invited; the talks culminated in the Sun City Agreement.
- 2003: the Ituri Pacification Conference, involving the transitional Government and the following armed groups active in Ituri:
  - The Union of Congolese Patriots (UPC)
  - The Party for the Unity and Safeguarding of the Integrity of Congo (PUSIC)
  - FNI
  - FRPI.

This conference resulted in the cessation of hostilities and the pacification of the Ituri district, despite several pockets of resistance.

- 2007-2008: the Conference for Peace, Security and Development in North and South Kivu, held in December 2007 and January 2008, which saw the participation of members of the Government, other Congolese leaders, traditional chiefs, civil society (grassroots communities from Nord-Kivu and Sud-Kivu), armed groups from Nord-Kivu and Sud-Kivu, as well as the international community. This conference culminated in the signing of the Goma Act of Engagement, the resolutions of which were implemented through the “Amani Programme”.

76. With regard to the foreign armed groups operating on the borders with Rwanda and Uganda, the agreements reached between the three countries, facilitated by the international community (the Kampala Understanding and the Nairobi Agreement), provided for the voluntary or forced disarmament and demobilization of members of these groups, in addition to their repatriation and reintegration in their country of origin. The conference organized at the end of May 2008 in Kisangani for the repatriation of foreign forces to their own country, particularly FDLR and the Interahamwe, should also be mentioned.

77. At 31 December 2007, the total number of minors associated with armed forces and armed groups was estimated at 39,594. Of these, 30,594, approximately 12 per cent of them girls, have now been removed from the fighting forces (*Source*: UEPN-DDR, Campaign “Zero Children Associated with Armed Forces and Armed Groups”, May 2008). Children who have left the fighting forces have been reunited with their families or their community and have benefited from various reintegration projects.

78. Regarding the age of children involved in armed conflicts, the data from the field surveys conducted in December 2007 and May 2008 in Bukavu, Bunia, Gbadolite, Kalemie and Kindu with public institutions, international organizations,

national and international NGOs and children removed from the armed forces and armed groups indicated an average age of 12.5 years. The youngest child was 8 years old at the time of enlistment and the oldest 17.

79. The same survey indicates that the average length of time a child remains in the armed forces and armed groups is five years. The majority of the children come from rural areas.

80. The agreements reached through negotiations between the Government and the various armed groups mentioned above contain clauses relating to the removal of children from armed groups and the commitment of these groups to ceasing the enlistment of minors. Such negotiations include:

- 1999-2002: negotiations between the Government and the political-military groups of the MLC and all the different factions of RCD;
- 2003: the Ituri Pacification Conference;
- Late 2007-early 2008: the Conference for Peace, Security and Development in North and South Kivu.

81. Since the beginning of the disarmament, demobilization and reintegration (DDR) process in 2001, awareness-raising among armed groups and communities regarding the need to prevent the recruitment of children has been conducted at the same time as the promotion of this concept within the armed forces. The awareness-raising was conducted by the Information and Awareness-Raising Directorate of CONADER, which carried out its activities in the 11 provinces of the country between 2004 and 2006.

82. As part of a national strategy, CONADER trained national educators in Kinshasa. In turn, these educators trained provincial awareness-raising workers in the main towns of the provinces, who, for their part, were sent to the interior of the provinces to raise awareness among communities on preventing the enlistment of children and on caring for children removed from armed forces and armed groups.

83. The following legislative texts have been adopted, establishing that the recruitment of persons aged under 18 years into armed forces or armed groups is an offence:

- Act No. 015/2002 of 16 October 2002 concerning the Labour Code (articles 3 and 326);
- Order No. 00/00225/EMG/COMDT/05 of 12 May 2005 from the Chief of the General Staff of the Armed Forces of the Democratic Republic of the Congo, which recalls that the recruitment of children into the armed forces is prohibited. Any violation of this order is to be prosecuted and punished on the basis of article 113 of Act No. 024/2002 of 18 November 2002 concerning the Military Penal Code.

84. The campaign for the registration of births in the Civil Registry has also been stepped up since 2003, with the personal involvement of the President of the Republic, who, on the Day of the African Child on 16 June 2003, officially launched the campaign through the formal presentation of registers to officers of the Civil Registry. The goal of this campaign is to strengthen legal protection for children, notably in preventing possible recruitment into the armed forces and armed groups.

Incentive measures have been undertaken at a local level, including a moratorium on the imposition of criminal sanctions on parents who have failed to declare births in due time, in order to achieve the aim of ensuring universal birth registration in the Civil Registry.

## **Article 5**

### **Saving clause**

85. Some national standards more conducive to the realization of the rights of the child with regard to prohibiting the recruitment of children into armed forces and armed groups are provided in:

- The Constitution (articles 41 (4) and 190);
- Decree-Law No. 066 of 9 June 2000 providing for demobilization and reintegration of vulnerable groups present within fighting forces;
- Act No. 023/2002 of 18 November 2002 concerning the Military Judicial Code (article 114);
- Act No. 04/023 of 12 November 2004 concerning the general organization of defence and the armed forces (articles 7, 10 and 41 (3));
- Decision No. MINEDUC/CABMIN/EPSP/0252 of 22 April 2002 exempting demobilized child soldiers from the payment of school enrolment fees and other charges levied by the Ministry of National Education.

86. Regarding international standards more favourable to the child than the provisions of the Protocol, such standards are contained in conventions ratified by DRC, such as:

- The African Charter on the Rights and Welfare of the Child (article 22 (2));
- The ILO Convention (No. 182) on the worst forms of child labour (article 3 (a));
- The four Geneva Conventions of 12 August 1949 relative to the Protection of Civilian Persons in Time of War;
- The Protocol Additional to the Geneva Conventions of 12 August 1949, and relating to the Protection of Victims of Non-International Armed Conflicts, adopted on 8 June 1977.

## **Article 6**

### **Obligation to take measures to ensure the implementation and dissemination of the Protocol and the demobilization of children**

87. Legislative, administrative and judicial measures have been adopted by DRC to ensure that the provisions of the Protocol are respected in practice. With regard to legislative revisions and amendments, the war which DRC experienced after 1996 prompted the Government to adopt radical measures prohibiting any recruitment or participation of persons under 18 years of age in the armed forces or armed groups well before the ratification of the Protocol in 2001. Prohibiting such acts was also

one of the aims of Decree-Law No. 066 of 9 June 2000 which was adopted in accordance with the Convention on the Rights of the Child.

88. Following the ratification of the Protocol, the following legislation was revised, amended or adopted:

- The transitional constitution of 4 April 2003 (article 184), which was superseded by the Constitution of 18 February 2006 (articles 41 (4) and 90);
- Act No. 015/2002 of 16 October 2002 concerning the Labour Code (articles 3-6 and 326);
- Act No. 023/2002 of 18 November 2002 concerning the Military Judicial Code (article 114);
- Act No. 04/023 of 12 November 2004 concerning the general organization of defence and the armed forces (articles 7, 10 and 41 (3));
- Act No. 024/2002 of 18 November 2002 concerning the Military Criminal Code (article 113);
- Decision No. MINEDUC/CABMIN/EPSP/0252 of 22 April 2002 exempting demobilized child soldiers from the payment of school enrolment fees and other charges levied by the Ministry of National Education.

89. The Child Protection Act is also important in this regard; this Act is currently in the process of being adopted by the Senate, following its adoption by the National Assembly on 2 June 2008.

90. The Protocol, which was ratified without reservations, takes precedence over domestic laws, as do all international conventions pursuant to the provisions of article 215 of the Constitution, which establishes that: "All duly concluded treaties and agreements shall, upon publication, take precedence over legislation subject, in the case of each treaty or agreement, to its implementation by the other party."

91. As regards the applicability of the Protocol before the domestic courts, article 153 (4) of the Constitution establishes that: "Courts and tribunals, civil and military, shall apply duly ratified international treaties, laws and regulatory enactments, provided that they comply with law and custom, insofar as the latter is not contrary to public order or morality."

92. The Inter-Ministerial Committee to Develop Proposals and Provide Guidance in regard to Disarmament, Demobilization and Reintegration (CI-DDR), established by Presidential Decree No. 03/041 of 18 December 2003, is the government body responsible for the implementation of the Protocol. CI-DDR comprises the Ministry of National Defence, the Ministry of Social Affairs, the Ministry of Human Rights, and the Ministry of the Status of Women and the Family.

93. The DDR programme is currently implemented by UEPN-DDR, which has replaced CONADER. UEPN-DDR has nationwide representation through its provincial branches (Ordinance No. 07/057 of 14 July 2007, article 3).

94. UEPN-DDR works closely with its supporting partners, including UNICEF, the United Nations Organization Mission in the Democratic Republic of the Congo

(MONUC) and the International Committee of the Red Cross (ICRC). It is also supported by its implementing partners, comprising domestic and international NGOs, which operate in the separate provinces of DRC as set out in the table below:

Table 2  
**Partner agencies of PN-DDR from 2005 to 2007**

<i>Province</i>	<i>Implementation agency</i>	<i>Main areas in which active</i>
Kivu	SOS Grands Lacs [SOS Great-Lakes]	Nord-Kivu/Sud-Kivu
	Save the Children UK (SCUK)	Nord-Kivu/Sud-Kivu
	Caritas	Nord-Kivu (Goma)
	Solidarity Action for Children in Distress (SACD)	Sud-Kivu
	Messagers pour l'éducation et la sensibilisation des enfants à la paix (MESEP) [Messengers for Peace Education and Awareness-Raising among Children]	Sud-Kivu
	Volunteer Office in the Service of Children and Health (BVES)	Sud-Kivu
	Voluntary Association for the Recovery of Orphaned, Abandoned and Malnourished Children (AVREO)	Sud-Kivu
	Carrefour d'enfants du Congo (CARECO) [Children's Crossroads of Congo]	Sud-Kivu
	AVENEMA	Sud-Kivu
	VETO	Sud-Kivu
	Initiative pour la promotion du paysan de Bunyakiri (IPPBU) [Initiative for the Promotion of the Peasants of Bunyakiri]	Nord-Kivu
	Programme général pour le développement (PGD) [General Development Programme]	Nord-Kivu
	Union paysanne pour un développement rural intégré (UPADERI) [Peasants' Union for Comprehensive Rural Development]	Nord-Kivu
	Scout Association of DRC (FESCO)	Nord-Kivu
	Christian Relief Network (CRN)	Nord-Kivu
	Concert d'actions pour jeunes et enfants défavorisés (CAJED) [Joint Action for Disadvantaged Children and Young People]	Nord-Kivu
Orientale	Cooperazione Italiana	Bunia, Kpandroma
	Caritas	Bunia, Mahagi
	Save the Children UK	Bunia, Aveba
	International Rescue Committee (IRC)	Bunia, Aru, Mahagi, Kasenyi, Kisangani



<i>Province</i>	<i>Implementation agency</i>	<i>Main areas in which active</i>
	Association des mamans pour la paix durable (AMAPAD) [Association of Mothers for Lasting Peace]	Mahagi
	Association pour le développement des communautés rurales du Congo ADECOR [Association for the Development of Rural Communities in the Congo]	Kasenyi
Équateur	Belgian Red Cross (CRB)	Sud-Équateur
	Health Aid Action for the Most Deprived (AASD)	Nord-Équateur (Gemena, Gbadolite)
	Action for Child Protection and Training (APEE)	Nord-Équateur (Lisala, Gbadolite)
Maniema	Care International	North and south
	Programme against Extreme Poverty and Hunger (PAMI)	
Katanga	International Foundation for Education and Self-Help (IFESH)	Kalemie, Moba, Kamina and Kongolo
	Amis des personnes en détresse (APEDE) [Friends of People in Distress]	
	Reconfort [Comfort]	
	Recherche et action pour un développement multisectoriel (RADEM) [Research and Action for Multi-Sectoral Development]	
	Cellules d'animation pédagogique (CAPED) [Pedagogical Training Groups]	
Kasaï	International Catholic Child Bureau (BICE)	Kasaï-Oriental and Kasaï-Occidental
Bas-Congo	SECAT	Moanda
	Simama Développement (SIMDEV)	Moanda
Kinshasa	CRB	Kinshasa and surrounds
	AASD	Kimpoko Children's Community
Bandundu	Groupe d'action pour la démobilisation et la réinsertion des enfants soldats (GADERES) [Action Group for the Demobilization and Reintegration of Child Soldiers]	
	Projet intégré pour les droits de la personne dans les entités nationales (PIDEN) [Comprehensive Project for Human Rights in National Bodies]	

*Source:* UEPN-DDR, Service for Children Associated with Fighting Forces (CAFF) and Vulnerable Groups, June 2008.

95. Organizations other than those listed above also contribute to the implementation of the DDR/Child programme, particularly War Child in Sud-Kivu and Équateur, the Adventist Development and Relief Agency (ADRA) in Bunia in the Orientale Province, and Solidarité des femmes en difficulté (SOFED) and APROSUN operating in Kalemie in Katanga.

96. The DDR process has the following evaluation and follow-up mechanisms:

- On a strategic and political level: the Inter-Ministerial Committee for DDR;
- At the level of operations management: UEPN-DDR;
- On a provincial level: the branches of UEPN-DDR.

97. Training on the subject of children's rights is carried out within the National Congolese Police through its specialized child protection units. Such units are already in operation in Bukavu, Goma, Kisangani and Mbandaka. They will gradually be established in other provinces.

98. Regarding the dissemination of the Protocol, the DDR programme has trained awareness officers and at the same time designed posters, booklets, leaflets and billboards targeted at the general public, through the CONADER Directorate for Information and Awareness-Raising. These activities have been complemented by radio advertisements, the core message of which is "No more children in armed forces or armed groups", translated into the four national languages.

99. Measures relating to disarmament, demobilization and the provision of appropriate assistance to ensure physical and psychological recovery and social reintegration have formed part of the DDR process since the programme was launched in 2001. Generally speaking, the stages followed are those set forth below:

- Awareness-raising is undertaken among the commanders of units in the armed forces and armed groups and they are persuaded to release the children present within their troops;
- The children present within the troops are identified, checks are carried out and the children are certified, in order to ensure that the individuals concerned are in fact children who have formed part of the armed forces or armed groups;
- Children are granted a certificate of release and are removed from the armed forces and armed groups, and subsequently taken into "peace villages" (structures d'encadrement transitoire (SET)) by a multidisciplinary educational team. At this stage, children who have contactable family members are directly reunited with them;
- Children receive psychological, social, medical and educational care in the "peace villages". When they arrive, children are identified, boys and girls are separated, and they receive a token "civilian life" kit containing clothing, shoes, bed linen and kitchen utensils. They are also given a medical examination. Counselling sessions are held with them throughout their stay at the centre. Their educational level is assessed, and children found to have very weak skills take remedial classes in reading and writing and in basic education (rules of good behaviour and life skills). Other socio-cultural and sports activities are also organized;

- The search for families is started, followed, as appropriate, by mediation aimed at achieving reunification. If mediation fails or if the children are unable to find their biological family, they are placed with a temporary foster family (FAT). These families are pre-selected by the implementing agency in accordance with criteria set by the operating handbook on the prevention, withdrawal and care of CAFF;
- Reintegration is undertaken on the basis of the educational project decided on by the transit and orientation centre, in the form of occupational or educational guidance.

Table 3  
**List of transit and orientation centres for the temporary care of children, 2005-2007**

<i>Province</i>	<i>Town</i>	<i>Non-governmental organization</i>
Bas-Congo	Moanda	SIMDEV (2) SECAT
Nord-Kivu	Beni	Let's Protect Children (LPC)
	Beni	LPC
	Beni	CRN
	Goma	Mucheche
	Goma	Don Bosco
	Goma	Save the Children Fund (SCF)/the Social Affairs Department of Sud- Kivu (DIVAS)
	Goma	SOS Grands Lacs
	Goma	CAJED
	Biranbizo	Caritas
	Matanda	Caritas
Sud-Kivu	Masisi	Caritas
	Mweso	Caritas
	Bukavu	BVES
	Bukavu	SACD/SCUK
	Uvira	SCUK/AVREO
	Kabare	Caritas
	Kalehe	Caritas
	Shabunda	SCUK
	Walungu	MESEP
	Katanga	Lubumbashi
Kalemie		IFESH/DIVAS

<i>Province</i>	<i>Town</i>	<i>Non-governmental organization</i>
	Moba	IFESH/Kirungu Diocese
	Kamina	APEDE
	Kongolo	IFESH (ready to open)
Orientale Province	Bunia	SCUK
	Bunia	Cooperazione Internazionale (COOPI)
	Bunia	Caritas
	Bunia*	IRC (day centre)
	Aveba	SCUK
	Aru*	IRC
	Mahagi	Caritas (1)
	Mahagi*	IRC (day centre)
	Kasenyi*	IRC (day centre)
	Kpandroma	COOPI (1)
	Kisangani*	IRC (day centre)
Maniema	Kindu	CARE (1)
	Lubutu	CARE
Kasaï-Oriental	Mbujimayi	BICE
Kasaï-Occidental	Kananga	BICE
Équateur	Mbandaka	CRB/Democratic Republic of the Congo Red Cross (CR-RDC) (3 CTOs and 1 day centre) APEE (1)
	Gbadolite	APEE (2)
	Gemena	AASD (1)
	Lisala	APEE (1)
	Basankusu	AASD (1)
Kinshasa	Kinshasa	CRB/CR-RDC
<b>Total</b>		<b>50 CTOs</b>

*Source:* UEPN-DDR, Service for CAFF, and Vulnerable Groups, June 2008.

\* IRC has adopted the strategy of working with temporary host families, with the option of the children being supervised at day centres.

100. In addition to the centres listed above, the transit and orientation centre run by the non-governmental organization GADERES at Kikwit in Bandundu Province should also be noted.

101. The children are most commonly trained in the following occupations:

- Bakery and confectionery trade

- Sewing and dressmaking
- Bicycle and motorcycle repairs
- Automobile mechanics
- Carpentry
- Metalworking
- Fishing, agriculture and animal husbandry
- Masonry and bricklaying

102. The following table provides disaggregated figures for each of the country's 11 provinces (Bandundu, Bas-Congo, Équateur, Kasai-Oriental, Kasai-Occidental, Katanga, Kinshasa, Sud-Kivu, Nord-Kivu, Province Orientale and Maniema) regarding the type of reintegration assistance made available to the 30,594 children removed from the armed forces and armed groups.

Table 4

**Disaggregated statistics on assistance to CAFF by category and province**

	<i>BDD</i>	<i>BC</i>	<i>EQ</i>	<i>K Or</i>	<i>K Oc</i>	<i>KT</i>	<i>KN</i>	<i>SK</i>	<i>NK</i>	<i>PO</i>	<i>MA</i>	<i>Total</i>
<b>CAFF removed</b>	<b>150</b>	<b>537</b>	<b>3 247</b>	<b>488</b>	<b>262</b>	<b>2 355</b>	<b>170</b>	<b>4 980</b>	<b>6 736</b>	<b>9 448</b>	<b>2 221</b>	<b>30 594</b>
CAFF reunited with families	135	16	2 451	488	114	1 652	175	3 058	4 489	8 203	2 279	<b>23 060</b>
CAFF enrolled in school	1	5	210	86	4	628	0	312	2 078	2 335	872	<b>6 531</b>
CAFF trained	6	2	1 642	208	22	163	148	1 133	2 329	3 009	1 529	<b>10 191</b>
<b>Total</b>												
CAFF in economic reintegration	<b>7</b>	<b>7</b>	<b>1 852</b>	<b>294</b>	<b>26</b>	<b>791</b>	<b>148</b>	<b>1 445</b>	<b>4 407</b>	<b>5 344</b>	<b>2 401</b>	<b>16 722</b>
<b>Estimated number of children awaiting reintegration: about 6 000</b>												

*Source:* Ministry for Social Affairs, report on follow-up and assessment of activities of PN-DDR/Children, December 2007.

103. Follow-up and assessment activities are conducted at every stage.

104. The children cease to be associated with the armed forces or armed groups when they are presented with their certificate of release, following identification, checks and certification. The child is separated from the army upon presentation of this certificate (Decree-Law No. 066 cited above, article 3 (2)).

105. As noted in paragraph 77 of this report, children associated with the armed forces and armed groups have been demobilized without any discrimination on the grounds of gender, the only criterion taken into account being the age of the individual (under 18 years of age), in accordance with the goals of the DDR programme. It is clear that girls experience more problems than boys (such as sexual slavery and forced marriages). In order to deal with the special difficulties encountered by girls, DDR programmes, in cooperation with the partners, should design and implement specific mini-programmes to this end.

106. The DDR programme benefited from a financial package of some US\$ 208 million, including a US\$ 108 million donation from the International Development Association (IDA)/World Bank and US\$ 100 million from the Multi-Donor Trust Fund (MDTF), for phases I and II (under BUNADER and CONADER), which are now completed. The funding was administered by the Committee for the Administration of Disarmament, Demobilization and Reintegration Resources (CGFDR), established pursuant to Decree No. 03/043 of 18 December 2003. In its work on behalf of children, the DDR programme assisted 30,594 children released by the armed forces and armed groups through phases devoted to the search for families, family reunification and reintegration support.

107. Phase III, which is being carried out by UEPN-DDR, has received US\$ 72 million in funding, including US\$ 50 million from the World Bank and US\$ 22 million from the African Development Bank.

108. The professionalism of the teams of multidisciplinary teaching staff, who work according to codes of ethics, ensures confidentiality and child protection.

109. Thus the Code of Conduct for the staff of child protection agencies and active partner organizations establishes, under “General Provisions”, article 1, that: “We will respect the fundamental human rights of all people, regardless of gender, race, religion or language, demonstrating impartiality, integrity and tact in all that we do.”

110. The provisions of the first article of the section covering exploitation and sexual abuse read as follows: “We will never use the Bureau or the knowledge gained through our official functions for personal interest or gain, including the acceptance of gifts or sexual favours in return for the goods or services provided by our agency, offers of employment, or preferential treatment”. Any infringement of the Code will result in either disciplinary or criminal proceedings, depending on the case.

111. As to the Media Code of Conduct, the general provisions provide that:

- “Article 1: The dignity and rights of children must be respected under all circumstances.”
- “Article 2: During an interview or report concerning children, their rights to privacy and confidentiality, to express their opinion, to contribute to decisions which affect them and to be protected from all possible abuse must be strongly upheld.”

112. As was noted in the paragraphs above, the recruitment of children into the armed forces or armed groups is categorized as an offence under the following legal provisions:

- Article 3 of the Labour Code, prohibiting the worst forms of child labour, one of which is enlistment. Any violation of this provision is punishable under article 326 of the Labour Code by a maximum of six months’ imprisonment and/or a fine of 30,000 Congolese francs.
- Article 113 of the Military Penal Code provides that the penalty for breach of military rules set out in Permanent Order No. 00/00225/EMG/COMDT/05 of 12 May 2005 from the Chief of the

General Staff of the Armed Forces of DRC shall be between three and ten years' imprisonment.

113. The Child Protection Act will also increase the penalties provided, as it establishes that "the recruitment or use of children under 18 years of age in the armed forces or armed groups and the police are acts punishable by a period of imprisonment of between 10 and 20 years".

114. The courts competent to try such offences from part of the ordinary organization of the courts of DRC, either military or civilian courts depending on the case. It should be highlighted that there are a number of individuals currently being prosecuted on suspicion of having recruited children including:

- Major Jean Pierre Biyoyo, sentenced to five years' imprisonment by the military tribunal of the garrison of Bukavu on 17 March 2006 (references to the case could not be recovered, due to a fire);
- Edmond Ndagano, sentenced to 20 years' imprisonment by the military court of Bukavu (references to the case could not be recovered, due to a fire);
- Major Alexandre Mwami, arrested 6 June 2007 by the Auditorat Militaire of Sud-Kivu and brought before the military court of Bukavu (RMP No. 1161/KM/07).

115. In addition to the above list, the case of Thomas Lubanga should also be noted; he was brought before the International Criminal Court, in the framework of the commitments of DRC under the Rome Statute, on charges of conscripting and enlisting children under 15 years old in Ituri. His trial, initially planned for 23 June 2008 in The Hague in the Netherlands, has been postponed.

116. The criminal responsibility of children is governed by the Decree of 6 December 1950 on juvenile delinquency, further strengthened by article 114 of the Military Judicial Code, which provides that: "Military tribunals shall not have jurisdiction to try persons under 18 years of age".

117. The minors Amisi Ramazani, Ndai Bukeba and Bushiri Kibundila, who were on trial and listed on the Register of Juvenile Delinquency (236) for owning and using weapons of war, were judged by the district court of Uvira in application of the above legislation. They were placed at the disposal of the Government on 23 March 2007 and transferred to the central prison of Bukavu, where they were to be held in special quarters in order to ensure their proper re-education.

118. Furthermore, minors sentenced and imprisoned for military offences were granted a nationwide presidential pardon under Decree No. 084/2002 of 2 August 2002.

Table 5  
**Minors granted a presidential pardon**

<i>No.</i>	<i>Name</i>	<i>Age at the time of the offence</i>	<i>Sex</i>	<i>Charges brought</i>	<i>Sentence</i>	<i>Place of detention</i>	<i>Child-friendly measures</i>
1	B. N.	Under 16	M	–	Death penalty	Kinshasa Penal and Rehabilitation Centre (CPRK)	Placed in an “Etablissement de garde et d’éducation de l’Etat” (EGEE) [State children’s home]
2	B.J.L.	Under 16	M	–	Death penalty	CPRK	Placed in an EGEE
3	M. I.	Under 18	M	–	Death penalty	CPRK	5 years’ penal servitude
4	M. K.	Under 18	M	–	Death penalty	CPRK	5 years’ penal servitude
5	E. D.	Under 18	M	–	Death penalty	CPRK	5 years’ penal servitude

119. Thirty-four other children who were taken prisoner in 2007 during fighting with CNDP troops in North-Kivu, in case RPM No. 30724/BSH/08, kept in custody in Wing 10, the children’s wing, of CPRK, were transferred to the centre run by the NGO Aide à l’enfance désœuvrée (AED), and then freed and returned to their homes.

## **Article 7**

### **Cooperation of the States parties in the implementation of the Protocol**

120. The DDR/Child programme launched in 2001 has received technical cooperation and financial assistance from the following organizations:

- The World Bank (donation);
- MDTF: Multi-Donor Trust Fund (Belgium, Canada, Denmark, the European Commission, France, Germany, Italy, the Netherlands, Norway, Sweden, the United Kingdom, Ireland and Finland);
- The International Labour Office;
- UNICEF;
- The United Nations Development Programme;
- The African Development Bank;
- ICRC;
- The African Union.

121. UEPN-DDR, which has a mandate to continue and complete the national DDR programme through organizing the planning, coordination and implementation of activities and operations involved in the DDR process (article 2 of Ordinance No. 07/057 of 14 July 2007), has assessed needs at US\$ 72 million. This assistance will allow 6,000 children to be removed from the armed forces and armed groups,



ensure that they receive psychological and social care and complete the reintegration of 3,000 CAFF still remaining from the two previous phases.

122. For this further stage of the DDR programme, the Government and the World Bank are currently working on an additional financing operation from IDA of around US\$ 50 million, with parallel financing from the African Development Bank of around US\$ 22 million. The World Bank has also established a multi-donor trust fund for emergency reintegration measures in the east of the country.

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