



Convention on the Rights of the Child

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WRITTEN REPLIES BY THE GRAND DUCHY OF LUXEMBOURG CONCERNING THE LIST OF ISSUES (CRC/C/OPAC/LUX/Q/1) TO BE TAKEN UP IN CONNECTION WITH THE CONSIDERATION OF THE INITIAL REPORT OF LUXEMBOURG 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 (CRC/C/OPAC/LUX/1)*

[Replies received on 21 August 2007]

List of issues to be taken up in connection with the consideration of the initial report of Luxembourg (CRC/C/OPAC/LUX/1)

Replies by Luxembourg

Question 1: *Please indicate whether there is any legal provision criminalizing compulsory recruitment or involving in hostilities of a person under 18.*

First, it should be noted that there is no compulsory military service in the Grand Duchy and that one cannot therefore speak of provisions criminalizing compulsory recruitment.

Second, article 19, paragraph 3, of the Military Organization Act of 23 July 1952 as amended by the Act of 20 December 2002 provides clearly that: "Army volunteers under the age of 18 cannot take part in military operations that fall within the scope of the army missions listed in article 2, paragraphs 1 (a), 2 (a) and 2 (b)."

The missions referred to in these provisions are: the defence of the Grand Duchy's territory in the event of armed conflict; contributions to the collective or common defence within the framework of the international organizations of which the Grand Duchy is a member; and participation within such a framework in humanitarian and evacuation missions, peacekeeping missions and combat missions for crisis management, including peacemaking operations.

Question 2: *In paragraph 8 of the State party's report, it is stated that the Armed Forces Chief of Staff has been instructed to select only candidates who are at least 18 years old for voluntary participation in peacekeeping missions. Please explain whether this "instruction" is just an informal rule or if it is actually provided for by the law.*

The provision in question is merely a ministerial directive whereby the Armed Forces Chief of Staff is instructed to select only candidates who are at least 18 years old for voluntary participation in peacekeeping missions.

However, a draft revised military act is currently going through the legislative process. This provides, inter alia, for the raising of the minimum age of enlistment in the army to 18 years.

Question 3: *In paragraph 10 of the State party's report, it is stated that the Act of 20 December 2002 which amends the Military Organization Act prohibits the involvement of volunteer soldiers under 18 either in operations of collective or common defence or in peacekeeping operations. In this respect, please explain what "direct participation in hostilities" means under the State party's legislation.*

In the sense of the provisions of military law, the phrase "direct participation in hostilities" means active participation in combat operations.

Question 4: *Please provide information on measures adopted with regard to the physical and psychological recovery and social reintegration of refugee, asylum-seeking and migrant children entering Luxembourg who may have been recruited or used in hostilities abroad.*

Labour migration to Luxembourg by lone migrants and families with children began in the early 1970s and has never really ceased. In addition, the years since 1992 have seen the arrival of varying numbers of single persons and families fleeing armed conflicts. Thus,

from 1992 to 2000, some 9,000 **asylum-seekers** arrived in Luxembourg, the majority from the former Yugoslavia, followed, from 2002, by persons from various regions of the African continent.

The vast majority of children arriving as asylum-seekers were accompanied by their parents, unaccompanied minors having always been only a marginal phenomenon in Luxembourg. These children, like Luxembourg children and youth, have access to both medical and psychological care from the country's specialists. They are referred to general practitioners or specialists, in paediatric psychiatry for example. Likewise, psychologists specializing in childhood and adolescence can provide expert assistance. Mention may also be made of the psychiatric and psychological outpatient services established by the Government's Commissariat for Foreigners, at which interpretation services are available.

Migrants legally settled in Luxembourg and **recognized refugees**, as well as unsuccessful asylum-seekers who have regularized their status in Luxembourg, have a free choice of physical and mental health service providers.

The past three or so years have witnessed the arrival of significant numbers of applicants for international protection aged under 30 and suffering from profound trauma. They are mostly women and men who were involved in armed conflicts during childhood or adolescence and have been subjected to various forms of violence.

The women have often been victims of sexual violence, a fact they have kept hidden from their close relations, parents and spouses for long periods.

The sub-Saharan African men have serious psychological problems, a number of them having been recruited as child soldiers, notably in Angola.

The young men from the Balkans report that they were separated from their parents during armed conflicts or were torn between parents living in different regions.

Once they attained their majority, given the difficulties of every kind persisting in their regions, they began to seek a country of asylum in the European Union. Having had successive applications rejected, they continue their rootless existence until, one day, they find themselves in the most dreadful state of health. They are unable either to cope with their past trauma or to settle into stable adult lives, which causes deep depression accompanied by suicidal ideation, flashbacks and panic attacks. These psychological problems often lead to physical illness.

The various measures existing in Luxembourg to promote physical and psychological recovery and social reintegration are as follows:

1. Free choice of doctor for migrant workers and members of their families, asylum-seekers (and members of their families) and refugees (and members of their families);
2. Coverage of medical expenses (variable rate) for workers through enrolment in a compulsory health insurance scheme;
3. Coverage of medical expenses (variable rate) for asylum-seekers whose applications are being processed through enrolment in the health insurance scheme referred to in paragraph 2 above, with contributions being paid by the State;
4. Social assistance, including health insurance coverage, for recognized refugees who are unable to enter the labour market;
5. Supplementary financial assistance to cover medical expenses, accorded by the Ministry of Health to residents of limited means;
6. Information and assistance services, open to the resident population;
7. Specialized information and guidance services for asylum-seekers;
8. Specific in-kind assistance for asylum-seekers, interpreting services for example, if necessary;
9. Access to services and assistance from private- and public-sector organizations that promote the social reintegration of Luxembourg residents, both Luxembourg- and foreign-born;
10. Guidance and assistance with social reintegration for asylum-seekers, including projects co-financed by the European Fund for Refugees.

Question 5: *Please provide information as to whether the State party may assume extraterritorial jurisdiction over the war crime of conscripting or enlisting children under the age of 15 into the armed forces, or using them to participate actively in hostilities. Also in relation to extraterritorial jurisdiction, please indicate whether courts in Luxembourg may establish their jurisdiction in case of the compulsory recruitment or involving in hostilities of a person under 18 if committed outside Luxembourg by or against a citizen of Luxembourg.*

Jurisdiction may not be established in either instance.

Question 6: *Please explain how access to arms is regulated within the State party. Also, please provide information on the rules regulating the production, sale and distribution of small arms and other weaponry.*

A. Efforts at the national level

The legal framework in this area consists of the Arms and Ammunition Act of 15 March 1983 and the Grand-Ducal Regulation of 31 October 1995 on the import, export and transit of arms, ammunition and materiel intended specifically for military use and of related technology, which are published in the *Mémorial*, the official gazette of Luxembourg.

To ensure international coordination in the area of small arms and light weapons, the Ministry of Foreign Affairs has been tasked with liaising with other States and organizations.

1. Prohibited weapons

Under article 4 of the Arms and Ammunition Act of 15 March 1983, the import, manufacture, modification, repair, acquisition, purchase, possession, storage, transport, carrying, transfer, sale, export of and trade in certain types of arms and ammunition are prohibited. However, the Ministry of Justice may, by derogation from article 4, authorize:

- (a) The import, acquisition, purchase, transport, possession, sale, transfer, export of or trade in arms and ammunition where such arms and ammunition are antiques, works of art or decorative items or are intended for inclusion in a collection or armoury (authorization may be subject to the condition that the weapons have been permanently disabled);
- (b) The import, acquisition, purchase, transport, possession, sale, transfer or export of arms and ammunition intended for scientific or educational use;
- (c) The import, export or transit of arms from abroad where such arms are intended for other countries.

The authorization may allow the weapons listed above to be used for purposes other than those referred to.

There is no national marking system in Luxembourg for manufactured and/or imported small arms. There are no arms factories in the Grand Duchy. Gunsmiths and arms and ammunition dealers must keep a register, in which they must record acquisitions and sales of arms, as well as the make, calibre and manufacturing number of each weapon and the name and address of the supplier and purchaser. In addition, the register must indicate the number and date of issuance of the ministerial authorization, which must be produced whenever so requested by public officials. Gunsmiths and arms dealers may be required to provide a copy of their register to the Ministry of Justice. The maximum quantities of arms and ammunition that may be kept in stock by gunsmiths and arms dealers are fixed by the Ministry.

In the event of riots, suspicious gatherings or breaches of the peace, the Ministry may order the closure or evacuation of all arms and ammunition stores and warehouses and the transfer of the arms and ammunition to a place chosen by it.

Violations of the Act of 15 March 1983 are punishable by imprisonment for a term of from eight days up to a maximum of five years.

2. Export

When a weapon is acquired in the Grand Duchy with a view to its export, the gunsmith must submit an application to the Ministry of Justice so that the vendor may obtain authorization to export the weapon, that is, to transport it from the place of acquisition to the frontier. Applications for licences to export arms, ammunition and materiel intended specifically for military use and related technology must be accompanied by an international import or end-user certificate. The Grand-Ducal Regulation of 31 October 1995, as amended, provides that the Minister for Foreign Affairs, Foreign Trade and Cooperation should determine the form and content of these documents.

In accordance with and pursuant to Council Directive 91/477/EEC on control of the acquisition and possession of weapons (art. 11), Luxembourg transmits to the other member States concerned the licences granted for exports to their respective territories.

The Licences Office may require applications for the transit of arms, ammunition and materiel intended specifically for military use and of related technology to be accompanied by a document certifying that the competent authorities of the country of origin of the goods have authorized their export to the country of destination.

Applications for export and transit licences must be accompanied by an undertaking signed by the applicant that the export or transit of the goods will be effected in accordance with the licence application. Within three months of each shipment of goods covered by an export licence, the exporter must provide the Licences Office with proof of the arrival of the goods in the authorized country of destination and of their clearance by the importer.

Such proof may take the form of the document issued by the customs service of the importing country establishing that the exported goods have been entered for consumption or any other document establishing the direct acceptance of the goods by the competent authority of the importing country or by any operator appointed for that purpose by the competent authority.

3. Destruction of arms

With regard to the destruction of arms, the method used by Luxembourg (the Luxembourg army, the Grand-Ducal police and the customs service) is destruction by severing. This is carried out by the armouries of the respective services. The severed metal is gathered in a container and transported by armoury officers to a steel-making works, where, in front of witnesses, it is melted in electronic blast furnaces. Afterwards, the destruction is recorded.

B. Efforts at the international level

1. Measures to combat the accumulation and proliferation of small arms

From 2001 to 2004, the Luxembourg authorities financed a project of the Groupe de Recherche et d'Information sur la Paix et la Sécurité (GRIP) entitled "A stronger network of African NGOs for conflict prevention and peacebuilding". Among the project's

goals is the establishment of a network of Central and West African NGOs active in the promotion of a culture of peace, peacebuilding and efforts to combat the proliferation of small arms. Total contributions to the project amounted to 223,000 euros.

In addition, in 2006, a sum of 15,000 euros was allocated to GRIP by way of a voluntary contribution, and 16,500 euros was paid to the Organization for Security and Co-operation in Europe for humanitarian demining and destruction of dangerous and excessive ammunition stocks in Ukraine.

2. Participation in efforts by international and regional organizations

In 2006, Luxembourg participated in efforts by the following international and regional organizations:

(a) United Nations

Luxembourg participated in the United Nations Conference to Review Progress Made in the Implementation of the Programme of Action to Prevent, Combat and Eradicate the Illicit Trade in Small Arms and Light Weapons in All Its Aspects, held in New York from 26 June to 7 July 2006.

(b) United Nations General Assembly

During the work of the First Committee at the sixty-first session of the General Assembly, Luxembourg sponsored or voted in favour of various resolutions on the issue of small arms and light weapons and ammunition (resolutions 61/89, 61/72, 61/71, 61/79 and 61/66).
