



# **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 12, paragraph 1, of the Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography**

**Reports of States parties due in 2013**

**Luxembourg\***

[Date received: 7 October 2015]

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\* The present document is being issued without formal editing.



## Initial report of Luxembourg

1. The Convention on the Rights of the Child was ratified by means of the following law:

“The Act of 20 December 1993 providing for:

- (1) The approval of the Convention on the Rights of the Child adopted by the United Nations on 20 November 1989; and
- (2) The amendment of certain provisions of the Civil Code.”

2. The Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography was ratified by means of the following law:

“The Act of 16 July 2011 providing for:

- (1) The approval of
  - (a) The Council of Europe Convention on the Protection of Children against Sexual Exploitation and Sexual Abuse, which was opened for signature at Lanzarote on 25 and 26 October 2007; and
  - (b) The Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography; and
- (2) The amendment of certain articles of the Criminal Code and the Code of Criminal Procedure.”

### (1)

3. The preparation of this report was coordinated by the agency responsible for coordinating governmental actions aimed at giving effect to children’s rights. Until December 2013, this was the Ministry for the Family and Integration and for the Greater Region, and since December 2013, it has been the Children’s Rights Service of the Ministry of National Education, Children and Young Persons.

4. The following ministries, working together as part of the Interministerial Working Group on the Rights of the Child, participated in drafting the report:

- Ministry of Foreign and European Affairs;
- Ministry for Equal Opportunity;
- Ministry for the Family and Integration;
- Ministry of Justice;
- Ministry of Health;
- Ministry of Labour, Employment and the Social and Solidarity Economy

5. The following non-governmental organizations (NGOs) also participated in drafting the report:

- Bee Secure;
- ECPAT (End Child Prostitution, Child Pornography and Trafficking of Children for Sexual Purposes) — Luxembourg;
- The United Nations Children’s Fund (UNICEF), Luxembourg office.

6. The Ombudscomité fir d'Rechter vum Kand (Ombuds Committee for Children's Rights) (ORK) — an independent public body concerned with defending the rights of the child — also participated in preparing the report.

## (2)

7. The current national legislation on children's rights upholds the principles of non-discrimination (cf. art. 10 bis of the Constitution on the principle of equality before the law), the best interests of the child, the right to life, survival and development, and respect for the views of the child inasmuch as their primary objective is to protect children's rights.

8. Chapter VI of the Luxembourg Criminal Code contains specific provisions on offences that involve all forms of discrimination. For example, article 454 states that "any distinction between natural persons, on the basis of their origin, skin colour, sex, sexual orientation, family status, age, health status, disability, customs, political or philosophical opinions, union activities, or affiliation or non-affiliation, whether actual or supposed, with a particular ethnic group, nation, race or religion, shall constitute discrimination. Likewise, any distinction between legal entities, or groups or communities of persons, on the basis of the origin, skin colour, sex, sexual orientation, family status, age, health status, disability, customs, political or philosophical opinions, union activities, or affiliation or non-affiliation, whether actual or supposed, with a particular ethnic group, nation, race or religion, of the members or certain members of these legal entities, groups or communities, shall also constitute discrimination."

9. These general provisions on discrimination and their corresponding penalties are also applicable to the specific subject matter of the Optional Protocol.

10. It is worth pointing out that the Criminal Code prescribes heavier penalties for offences relating to child pornography, indecent assault, rape, sexual exploitation and procuring, when these offences are committed against minors. Minors are thus considered to be particularly vulnerable persons on account of their age.

11. The Criminal Code stipulates that any person convicted of committing against a minor an offence of indecent assault, rape, sexual exploitation, prostitution, procuring or child pornography may be banned by the courts either for life or for a period of 10 years from engaging in any occupational, volunteer or social activity that involves regular contact with minors.

12. Also with regard to protecting the interests of the child, the Act of 20 December 1993 provided for the inclusion in the Civil Code of a chapter entitled "Court hearings involving children and the defence of their interests". This chapter was amended by a law dated 5 June 2009. Articles 388-1 and 388-2 now read as follows:

"Article 388-1.

(1) In all proceedings that concern him or her, a minor capable of discernment may, without prejudice to the provisions governing his or her intervention or consent, be heard by the judge or, when his or her interests require it, the person designated by the judge for this purpose;

(2) This hearing shall be granted as a matter of right when requested by a minor. In the event a minor refuses to be heard, the judge shall assess the merits of such a refusal;

(3) Minors may be heard alone or accompanied by a lawyer or a person of their choice. If this choice does not appear to be in keeping with the interests of the minor, the judge may designate another person;

(4) Hearings of minors shall take place in the judge's chambers;

(5) The hearing of a minor shall not confer on him or her the status of a party to the proceedings."

13. Article 388-2 was inserted after article 388-1 of the Civil Code and reads as follows:

"Article 388-2. In the course of a proceeding, whenever a minor's interests appear to be in opposition to those of his legal representatives, the guardianship judge — subject to the terms of article 389-3 — or failing that, the presiding judge, shall appoint an ad hoc administrator to represent the minor." (Cf. Annex 5, arts. 388-1 and 388-2 of the Civil Code).

14. Lastly, the specific interests of minors who are witnesses to or victims of offences are further protected by the provisions of article 37-1 of the amended Legal Profession Act of 10 August 1991; article 18 of the amended Youth Protection Act of 10 August 1992; and the Act of 6 October 2009 on Strengthening the Rights of Victims of Criminal Offences. Details on these provisions are contained in part VI of the present report under the heading "Victim Protection" (section 27 (a)).

### **(3)**

#### **Article 1**

15. Article 388 of the Civil Code stipulates that: "A minor is an individual of either sex who has not yet reached the age of 18."

#### **Article 11**

16. The unlawful transfer of a child abroad and failure to return him or her are covered by chapter IV "Kidnapping of minors", articles 368 to 371-1 of the Criminal Code (Annex 1).

#### **Article 21**

17. Luxembourg ratified the Hague Convention by means of the Act of 14 April 2002 providing for:

- The approval of the Hague Convention on Protection of Children and Cooperation in Respect of Intercountry Adoption of 29 May 1993;
- The amendment of certain provisions of the new Code of Civil Procedure; and
- The insertion of article 367-2 in the Criminal Code.

18. The Ministry for the Family and Integration, which is the central authority for intercountry adoption, granted accreditation to four adoption agencies, which are authorized to conduct intercountry adoptions with the following countries: Republic of Korea, India, Bulgaria, South Africa and Peru. Luxembourg works directly with either the central authorities of these countries or with an agency accredited by them.

19. The Government signed cooperation agreements on bilateral adoption with South Africa in 2012 (formalizing a long-standing arrangement), and with Viet Nam in 2013 (establishing a new cooperation arrangement beginning in 2014).

## **Article 32**

20. In Luxembourg, child labour (meaning that of young people under the age of 15 who are subject to compulsory schooling) is prohibited as a general rule.

21. The following are prohibited:

- The employment of children in work of any kind;
- Their participation, whether gainfully or for occupational purposes, in audiovisual, cultural, artistic, sporting, advertising or fashion-related activities, unless authorized by the Minister of Labour;
- Their participation, even if not gainfully or not for occupational purposes, in activities of a commercial nature or in those related to the usual conduct of an organiser, promoter or enterprise, unless authorized by the Minister of Labour.

### **Exceptions to the general rule**

22. The following activities are not considered to constitute child labour:

- Work performed in technical and vocational schools, provided that it is primarily educational in nature, not intended for commercial gain and has been approved and is supervised by the competent public authorities;
- Occasional domestic work carried out for short periods of time in the home by children who are cared for on a regular basis by the family for which they perform such work;
- Non-gainful participation in commercial activities, in the normal activities of members of a sports, cultural or artistic association or in community projects.

23. This is provided that the work in question:

- Does not pose any danger or risk to children;
- Does not undermine their education or training;
- Is not harmful or prejudicial to their health or development (physical, mental, etc.); and
- Does not exploit them economically.

### **Youth employment**

- The term “young person” means persons under the age of 18 in possession of an employment contract and working in a salaried occupation in the territory of the Grand Duchy of Luxembourg, interns, apprentices, unemployed youth given a temporary auxiliary contract and pupils and students employed during school holidays;
- The term “adolescent” means young people between the ages of 15 and 18 who are no longer subject to compulsory education.

24. Employers of young workers must take appropriate measures to protect the young persons’ safety and health. Such measures are to be determined on the basis of a risk assessment carried out prior to the young person’s entry into service and whenever significant changes are made to his or her working conditions. If the

assessment reveals the presence of a risk to the safety, health or physical, psychological, mental, moral or social development of a young person, the competent occupational health service must properly evaluate and monitor the young person's health free of charge and at regular intervals.

25. Before signing a contract of employment, apprenticeship or internship, or before a young person's entry into service, the employer must notify the young worker in writing of any potential risks and all health and safety measures that have been taken to minimize them.

26. Pupils and students who work during school holidays are required to undergo a pre-employment medical examination if the job they will perform puts them at risk for an occupational illness or is in the field of security.

### **Vulnerability of youth — Ban on employment**

27. Young people may not be employed in jobs that expose them to prescribed risks to their safety, health or physical, psychological, spiritual, moral or social development, or that are likely to undermine their education or vocational training because of their lack of experience or lack of awareness of existing or potential risks.

28. They are prohibited from performing jobs (cf. annexed list) that:

- Exceed their physical or mental capacity;
- Expose them to toxic or carcinogenic substances or radiation;
- Expose them to extreme temperatures (hot or cold);
- Expose them to noise or vibrations;
- Entail harmful exposure to physical, biological or chemical substances.

29. Payment by result, assembly line work, or any other system designed to obtain greater remuneration by expediting the pace of work is prohibited for adolescents.

### **Adolescent employment**

#### *Occupational safety and health*

30. Specific instructions must be given to adolescents if, in the course of their vocational training, they are to be taught to perform dangerous tasks.

31. Employers who hire one or more adolescents must keep a file containing all personal and occupational data relating to them. Medical examinations are to be carried out in conformity with those prescribed by the Occupational Health Services Act of 17 June 1994.

#### *Working hours*

32. Working hours must not exceed 8 hours a day or 40 hours a week. Hours spent in school (in a work/study programme) are counted as working hours, and employers are required to grant adolescents time off from work in order to complete their compulsory vocational education.

33. Adolescents are not allowed to work overtime hours, except in isolated instances and on the basis of a prior and reasoned request sent by the employer to the director of the Labour and Mines Inspectorate.

*Rest periods and breaks*

34. After each 4-hour period, adolescents are to be granted a paid rest period of at least 30 minutes. In the course of each 7-day period, adolescents are to be granted a rest period of 2 consecutive days that generally includes Sunday.

*Work on Sundays and official holidays*

35. Adolescents may not be employed on Sundays and official holidays. On an exceptional basis, employers may be authorized to employ adolescents on these days by informing the director of the Labour and Mines Inspectorate with as much lead time as possible and indicating the reasons. In the subsequent 12-day period, 1 whole day of compensatory rest must be granted. Work on Sundays is remunerated on the basis of a 100 per cent supplement; work on official holidays is remunerated using the same formula as that for Sundays, plus official holiday compensation.

*Night work*

36. Adolescents may not work during the night, meaning during a consecutive 12-hour-period that encompasses the time between 8 p.m. and 6 a.m. For companies offering 24-hour services, adolescents may work until 10 p.m., but they are still prohibited from working from midnight to 4 a.m.

37. A minister with responsibilities that include labour may grant a written exemption from this rule for work that is carried out as part of an official vocational training programme and that is organized and supervised by a competent public authority, including:

- In the health professions sector, with regard to which adolescents are covered by the Act of 26 March 1992 on the Exercise of Certain Health Professions and Upgraded Entitlements;
- In the socio-educational field;
- In the hospitality and catering sector (adolescents covered by the provisions of book I, part I, on apprenticeship contracts);
- In the armed forces;
- In the bakery/pastry sector.

38. In all cases, night work by adolescents remains prohibited between midnight and 4 a.m.

39. In the case of an assignment to night work, a health evaluation is carried out at regular intervals by the competent occupational health service.

*Paid vacation*

40. Adolescents are entitled to paid annual leave of at least 25 working days, without prejudice to more favourable contractual arrangements. Leave for apprentices must be granted within the time period allotted for the holidays of students in higher education.

*Remuneration*

41. The minimum contractual wage rate for adolescents under the age of 18 is set as a percentage of the remuneration paid to adult workers in the same job for work of equal value (75 per cent for workers aged 15 to 17; 80 per cent for workers aged 17 to 18; 100 per cent for workers aged 18 and older).

42. Workers who are 18 years or older are entitled to receive the statutory minimum wage.

### **Article 34**

43. Articles 372 to 382 of the Criminal Code (chaps. V and VI) concern the protection of children from all forms of sexual exploitation and sexual violence.

### **Article 35**

44. Articles 382-1 to 382-3 of the Criminal Code (chap. VI-I) concern the protection of children from abduction, sale or trafficking.

### **Article 36**

45. Articles 379 to 382 of the Criminal Code (chap. VI on sexual exploitation) and article 382-1 of the Criminal Code (chap. VI on human trafficking) concern the protection of children from sexual exploitation and trafficking.

## **(4)**

46. Luxembourg signed the Optional Protocol on 8 September 2000 and ratified it by means of the Act of 16 July 2011 providing for its approval. The instrument of ratification was deposited on 2 September 2011. The Optional Protocol is consequently an integral part of domestic law, which is applied by the competent national courts.

## **(5)**

47. At the present time, the Government does not intend to withdraw its reservations.

## **(6)**

48. Two new laws have recently been adopted with a view to ensuring the protection of the rights of the child as set forth in the Optional Protocol:

- The Act of 16 July 2011 on the Protection of Children from Sexual Exploitation and Sexual Abuse (Annex 3);
- The Act of 21 February 2013 on Combating the Sexual Abuse and Sexual Exploitation of Children (Annex 4).

49. An example of progress made in this area is the Bee Secure initiative, which is a joint project of the Ministry of Economic Affairs and Foreign Trade, the Ministry for Family Affairs and Integration and the Ministry of Education.

50. This initiative is coordinated and led jointly by:

- The National Youth Service: This government agency, which is under the authority of the Ministry for Family Affairs and Integration, is staffed by persons with solid backgrounds in social sciences and education, thus enabling it to offer a “caring” approach to the subject;

- Security made in Lëtzebuerg (SMILE): An economic interest grouping owned by the ministries of economic affairs and foreign trade, education and family affairs; the Syndicat Intercommunal de Gestion Informatique (SIGI); and the Syndicat des Villes et Communes de Luxembourg (SYVICOL). SMILE has long-standing and strong ties to the information technology field;
- KannerJugendtelefon (KJT): A State-funded organization that manages the national helpline for children, adolescents and parents. It also manages the Bee Secure Helpline, which targets the same audience, including teachers, educators and the general public. KJT also manages the Bee Secure Stopline, which is a website where people can report illegal Internet activities.

51. The Bee Secure initiative includes actions to raise awareness about the safer use of new information and communication technologies. Bee Secure is also funded in part by the European Commission and serves as the Luxembourg focal point for awareness-raising within the Insafe Pan-European Network.

### **Bee Secure Stopline**

52. The Bee Secure Stopline is managed by KannerJugendtelefon (which in turn is managed by Caritas Jeunes et Familles, together with the Kannerschlass Foundation, the Luxembourg Red Cross and the Medical and Social League as part of an agreement with the Ministry for Family Affairs and Integration).

53. The objectives of the Bee Secure Stopline are to provide an anonymous mechanism for reporting the presence of illegal content on the Internet and to process the reports in cooperation with the competent national and international authorities. Through its web site, the Bee Secure Stopline offers the population a chance to exercise their civic responsibility when confronted with illegal content in the public space of the Internet.

54. The sphere of competence of the Bee Secure Stopline includes:

- Child pornography;

Cf. Criminal Code, art. 384, chapter VII — Public indecency.

- Racism, Holocaust denial and discrimination.

Cf. Criminal Code, arts. 454 to 457, chapter VI — Racism, Holocaust denial and other forms of discrimination.

Cf. Criminal Code, arts. 327 to 331, chapter II — Threats of attack and offers or proposals to commit certain crimes.

### **Cooperation with the police force of the Grand Duchy**

55. As part of efforts to manage reports of illegal content, the Bee Secure Stopline has signed a cooperation agreement with the Grand Duchy Police that will enable the Stopline to serve as an intermediary and expert for receiving, analysing and transmitting reports to the appropriate services of the Criminal Investigation Service of the Grand Duchy Police, namely the youth protection section, in the case of child pornography; the general crime section, in the case of racism, Holocaust denial and discrimination; and the anti-terrorism unit, in the case of terrorism and incitement to commit a serious offence.

56. The above-mentioned cooperation agreement addresses solely the transmittal of information in relation to reports of illegal content.

### **International cooperation: The INHOPE network**

57. The mission of INHOPE (International Association of Internet Hotlines) is to support and enhance the activities of partner Internet hotlines, while ensuring that reports of illegal content on the Internet are dealt with in a coordinated fashion.

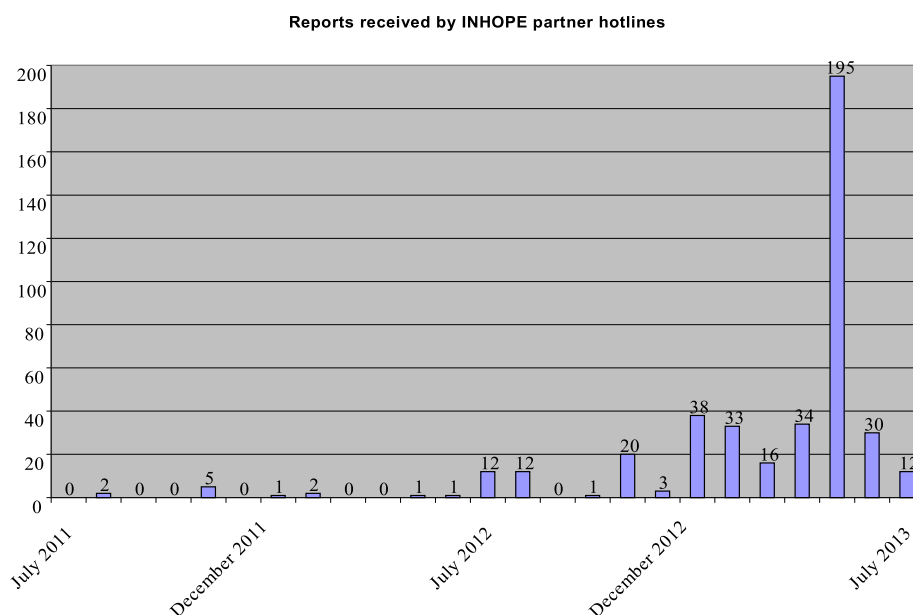
58. INHOPE currently comprises 37 member countries with a total 43 hotlines:

- Australia: Australian Communications and Media Authority
- Austria: Stopline.at
- Belgium: Child Focus
- Bosnia and Herzegovina: International Forum of Solidarity (EMMAUS)
- Bulgaria: Bulgarian Safer Internet Hotline (ARC Fund)
- Canada: Cybertip.ca
- Cyprus: Safenet.cy
- Czech Republic: Horká Linka
- Denmark: Save the Children, Denmark
- Estonia: Lastekaitse Liit — Estonian Union for Child Welfare
- Finland: Save the Children, Finland
- France: Association des fournisseurs d'Accès et de Services Internet (AFA) — Point de Contact
- Germany: Association of the Internet Industry (ECO), Voluntary Self-Monitoring of Multimedia Service Providers (FSM), Jugendschutz.net
- Greece: Safeline.gr
- Hungary: National Media and Infocommunications Authority Hotline, Theodore Puskás Foundation
- Ireland: Hotline.ie
- Iceland: Save the Children, Iceland
- Italy: Telefono Azzurro, Save the Children, Italy
- Japan: Internet Hotline Center — Japan
- Latvia: Drossinternets.lv
- Lithuania: Draugiskasinternetas.lt (Safer Internet Centre Lithuania)
- Luxembourg: Bee Secure Stopline
- Malta: Be Smart Online — Agenzija Appogg
- Netherlands: Meldpunt Kinderporno
- Poland: Dyżurnet.pl
- Portugal: Linha Alerta
- Romania: Focus internet hotline — safenet.ro

- Republic of Korea: Korean Internet Safety Commission (KCSC)
- Russian Federation: Safer Internet Centre, Friendly Runet Foundation
- Slovakia: eSlovensko — Stopline.sk
- Slovenia: Spletno Oko
- South Africa: Film and Publication Board
- Spain: Protegeles, Fundación Alia2
- Taiwan: ECPAT Taiwan Web 547
- Turkey: Information and Communication Technology Authority IHBAR-WEB
- United Kingdom: Internet Watch Foundation (IWF)
- United States of America: National Center for Missing and Exploited Children (NCMEC) — Cybertipline

59. Membership in INHOPE enables the Bee Secure Stopline to transfer reports of illegal content hosted in a member State directly to a partner hotline in that State via the INHOPE Report Management System database, thus ensuring that the report will be dealt with by the competent authorities of the country concerned.

60. In the period from July 2011 to July 2013, the Bee Secure Stopline received a total of 418 reports from various hotlines in the INHOPE network of sites hosted in Luxembourg containing child pornography.



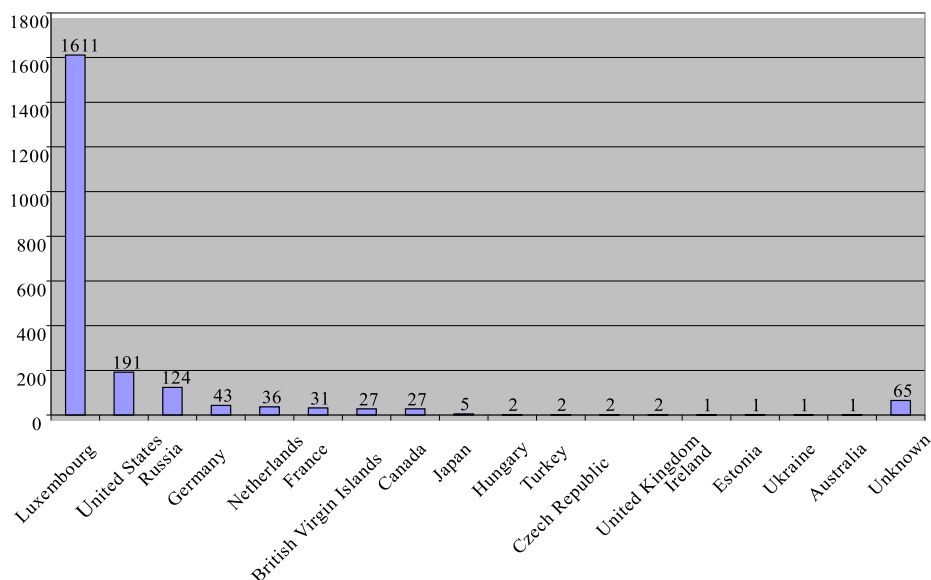
**Figure 1**

61. In the period from July 2011 to July 2013, 1,090 of the reports received by the Bee Secure Stopline concerning content that the Stopline team considered to be child pornography corresponded to sites hosted in Luxembourg.

62. All reports of sites considered to be illegal under national legislation are transmitted to the Grand Duchy Police for appropriate action if the hosting country is Luxembourg and for information purposes if the site is hosted in another country.

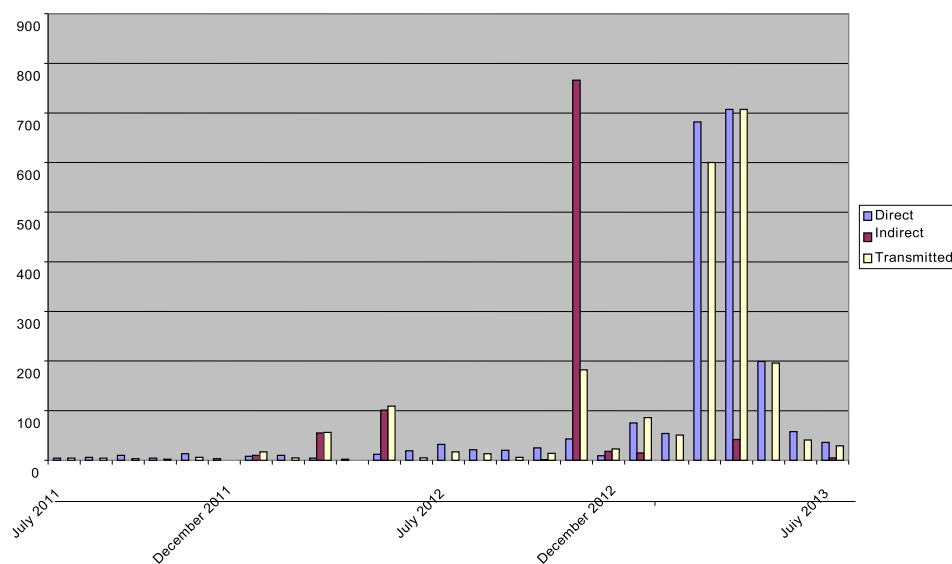
63. All reports of sites hosted in an INHOPE member country are transmitted to a partner hotline in accordance with INHOPE procedures, except those concerning sites hosted in the Ukraine and the British Virgin Islands, which do not have a partner hotline in the INHOPE network.

Countries hosting websites with illegal content



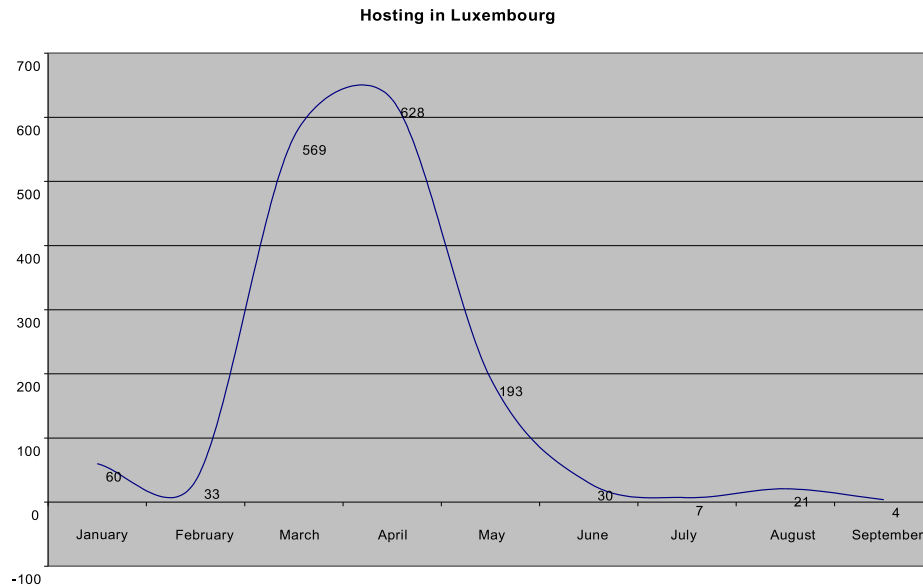
64. From July 2011 to July 2013, the Bee Secure Stopline received a total of 2,056 direct reports and 1,013 indirect reports, which are sites that are discovered on the basis of a report from a user or partner hotline.

Number of reports



65. These statistics reflect an increase in the number of reports received and transmitted — in other words, reports of sites that are considered to contain child pornography and that are consequently transmitted to the competent authorities.

66. Since the Bee Secure Stopline is part of the INHOPE international network, all child pornographic content reported to a partner hotline is immediately transmitted to the Bee Secure Stopline. This is one of the reasons why the statistics of the Bee Secure Stopline rank Luxembourg as first among apparent hosting countries.

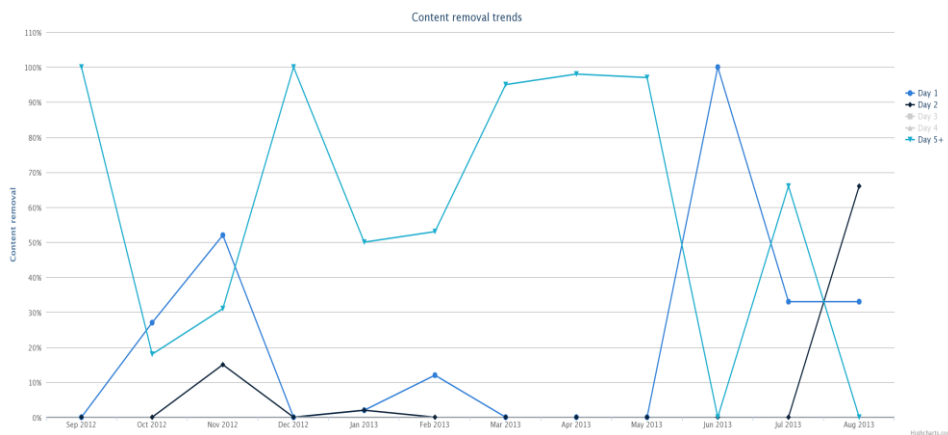


67. During the months of March, April and May 2013, the Bee Secure Stopline registered a sharp increase in the number of reports of child pornography on sites hosted in Luxembourg.

68. In the INHOPE database, reports by the Bee Secure Stopline for the period from January 2013 to September 2013 accounted for 3.7 per cent of all such reports worldwide and 7.4 per cent of such reports in the European Union.

69. All links to websites reported during this period by the public or by partner hotlines in the INHOPE network corresponded to two one-click-hoster sites hosted in Luxembourg. These sites allow users to download files from a link, and these links, together with the passwords needed to access the files, are exchanged in forums visited by paedophiles.

70. On top of the significant increase in the number of reports, no improvement has been made in terms of speeding up the removal of illegal content. INHOPE and the European Commission consider the “notice and take down” process to be an important measure. Given that many pages with child pornographic content on sites hosted in Luxembourg had tended to remain online for several days and sometimes several weeks after receipt of notification, the Bee Secure Stopline, together with representatives of the National Youth Service, the Ministry of the Economy and the new technologies unit of the Grand Duchy Police, organized a meeting with the hosting service concerned, the purpose of which was to find ways to cooperate in significantly reducing the number of “notice and take down” processes. As a result, the Bee Secure Stopline now has the capability of informing the hosting service directly of the presence of illegal Internet content, which enables the hosting service to transmit this information to its client or clients for the removal of the content as soon as possible.



71. This graph shows that the time taken to remove illegal content following the delivery of notification to the hosting service has decreased significantly: in June 2013, 100 per cent of the content reported to the Bee Secure Stopline was removed within 24 hours following notification by the Stopline; in July, 33 per cent within 24 hours; and in August, 99 per cent within 48 hours.

72. In the period from July 2011 to July 2013, the Bee Secure Stopline received a total of 418 reports of child pornographic content on sites hosted in Luxembourg from partner hotlines in the INHOPE network.

## (7)

73. Luxembourg applies the principles of territoriality, active personality for perpetrators of an offence committed abroad and passive personality for victims of an offence committed abroad, in accordance with article 3 of the Criminal Code, as well as with articles 5, 5-1, 7, 7-1 and 7-2 of the Code of Criminal Procedure.

## (8)

74. There are no specific provisions in the Criminal Code on the sale of children as it is defined in article 2 of the Optional Protocol, with the exception of those concerning the civil status of children (arts. 361 and ff. of the Criminal Code).

75. Article 3, paragraph 1 (a), of the Optional Protocol:

- The sale of children for the purposes of (i):

1. The “sexual exploitation of the child” is punishable under the following articles of the Criminal Code (Annex 1): Article 379 (Incitement to immorality); Article 379 bis (Procuring a minor); Article 382-1 (1) (Human trafficking), combined with article 382-2 (2), which establishes that the commission of the offence against a minor is an aggravating circumstance that increases the penalty;

2. The “transfer of organs of the child for profit” is prohibited under the following Criminal Code articles: Article 382-1 (3) (Human trafficking), combined with article 382-2, which establishes that the commission of the offence against a minor is an aggravating circumstance that increases the penalty;

3. The “engagement of the child in forced labour” is punishable under the following Criminal Code articles: Article 382-1 (2) (Human trafficking), combined with article 382-2, which establishes that the commission of the offence against a minor is an aggravating circumstance that increases the penalty;

- The sale (ii), in the context of “inducing consent, as an intermediary, for the adoption of a child”, does not appear to be regulated in accordance with the definition contained in article 2 of the Optional Protocol. The sale of a child for the purposes of adoption may be prosecuted on the basis of article 363 of the Criminal Code, which prohibits the replacement of a child with another child, combined with, where applicable, the provision on the abduction of a minor, but there is no specific offence on the sale of children, whether or not in the context of adoption.

76. “(b) Offering, obtaining, procuring or providing a child for child prostitution” may be prosecuted under Criminal Code articles 379 and 379 bis, or article 382-1, combined with article 382-2 (Human trafficking).

77. “(c) Producing, distributing, disseminating, importing, exporting, offering, selling or possessing for the above purposes child pornography as defined in article 2” may be prosecuted under articles 379-2 and 383, or 383 bis, of the Criminal Code.

78. “2. Subject to the provisions of the national law of a State Party, the same shall apply to an attempt to commit any of the said acts and to complicity or participation in any of the said acts.” In Luxembourg, the provisions relating to attempt (arts. 50 and ff. of the Criminal Code) apply in all cases to acts characterized as serious offences but not to those characterized as ordinary offences, unless expressly provided by the law criminalizing such conduct. The definition of complicity is set out in article 67 of the Criminal Code and is applicable to both serious and ordinary offences. Article 66 of the Criminal Code applies to both principals and joint principals of an offence (cf. Annex 1). The aforementioned articles apply without distinction to all the above offences.

79. “3. Each State party shall make such offences punishable by appropriate penalties that take into account their grave nature.” On account of the aggravating circumstance inherent in the fact that the victims are minors, most of these penalties have been increased by the acts of 16 July 2011 (implementation of the Lanzarote Convention and the Optional Protocol) and 21 February 2013 (transposition of Directive 2011/92/EU).

80. “4. Subject to the provisions of its national law, each State party shall take measures, where appropriate, to establish the liability of legal persons for offences established in paragraph 1 of the present article. Subject to the legal principles of the State party, such liability of legal persons may be criminal, civil or administrative.”

81. The criminal responsibility of legal persons is defined in chapter II-1 of the Criminal Code. This definition applies to serious and ordinary offences committed on behalf of and in the interest of legal persons. Provisions stipulating penalties may be applicable in cases of human trafficking and procuring with regard to increasing the fine (article 37 of the Criminal Code). In certain cases, an order may be made to dissolve the legal person.

82. In other respects, articles 379 ter and following of the Criminal Code prescribe a procedure for the temporary shutdown of an establishment in cases where the acts referred to in article 379 bis are likely to have been committed.

83. Lastly, there may be administrative consequences relating to the issuance of business permits by the Ministry of the Middle Classes, Tourism and Housing.

**(9)**

84. No comment.

**(10)**

**(a)**

85. No cases on record concerning the sale of children.

**(b)**

86. No cases on record concerning the transfer of organs of children for profit.

**(c)**

87. No cases on record concerning the engagement of children in forced labour.

**(d)**

88. No cases on record of adoption through unauthorized intermediaries.

**(e)**

89. No cases on record concerning the sale of children.

**(f)**

90. No cases on record concerning child trafficking.

**(g)**

91. It is not possible to describe how these practices have evolved over time.

**(11)**

**(a)**

92. No cases on record concerning child prostitution.

**(b)**

93. Although previously there were only a few cases of child prostitution, the phenomenon has now disappeared owing to an increased police presence.

**(c)**

94. As far as the authorities are aware, Luxembourg is not a destination for sex tourism; a working group has recently been assigned to study the development of an Internet site for reporting incidents of sex tourism committed abroad by residents of Luxembourg.

**(12)****(a) and (b)**

95. Child pornographic materials: From January 2011 to the present, 96 cases have been investigated on the basis of articles 383 and 384 of the Criminal Code.

**(c)**

96. Internet sites: During the period from July 2011 to July 2013, 1,196 Internet sites were blocked for containing child pornographic content (according to Bee Secure).

**(d)**

97. No cases on record of live shows.

**(13)****(a)**

98. Two new laws have recently been enacted in order to ensure the protection of the rights of the child as set forth in the Optional Protocol:

- The Act of 16 July 2011 on the Protection of Children from Sexual Exploitation and Sexual Abuse (Annex 3);
- The Act of 21 February 2013 on Combating the Sexual Abuse and Sexual Exploitation of Children (Annex 4).

**(b)**

99. No cases on record; therefore, no case law is available.

**(c)**

100. There are currently two bodies: an interministerial working group on the rights of the child, which is composed of all ministries with responsibilities relating to children and young people, and a working group to coordinate action to combat human trafficking, which is composed of representatives of all relevant ministries, the State Counsel's Office, the police and the Luxembourg Reception and Integration Agency.

**(d)**

101. Information is disseminated at departmental meetings organized within the State Counsel's Office, during which all legislative developments on the subject are reviewed. The youth protection and organized crime departments of the State Counsel's Office have developed a specialization in human trafficking and procuring. Regular exchanges also take place between the State Counsel's Office and educational staff, in particular inspectors of elementary education. Specialized training has been provided to the members of the youth protection section of the Criminal Investigation Service.

**(e)**

102. To date, no evaluation mechanism has been set up.

(f)

103. At the level of the Ministry of Justice, which is endowed with a general budget, it is difficult to identify the specific budget appropriations that correspond to the activities of the State party in relation to the implementation of the Optional Protocol. The Development Cooperation Directorate of the Ministry of Foreign Affairs co-finances activities related to prevention, protection and rehabilitation that NGOs carry out in developing countries; however, there are no budgetary appropriations specifically earmarked for implementing the Optional Protocol. Generally speaking, it is difficult to identify the amounts budgeted for the implementation of the Optional Protocol, as these amounts are subsumed in more general budgets.

(g)

104. In July 2013, the ministers of health, equal opportunities, education and the family adopted a sexual health strategy that included efforts to combat sexual violence against children.

105. The key elements of the strategy are:

- That sexual and emotional health is not limited to the act of sexual intercourse but rather includes feelings, respect and overall well-being, with regard to both oneself and others, and involves gender specific considerations and the rights to sexual identity and orientation, pleasure, intimacy and reproduction;
- That the promotion of sexual and emotional health also plays an important role in the prevention of unwanted pregnancies, sexually transmitted diseases and sexual violence;
- That the promotion of sexual and emotional health is an integral part of the education of children and young people.

106. The strategy provides for various areas of intervention:

- Good governance: Since the promotion of and education in sexual and emotional health are subjects that touch upon many areas of administration and policy, as well as numerous stakeholders and centres of operation, it is crucial to set up an exchange platform for the development of a coordinated approach;
- Information, awareness-raising and education in emotional and sexual health: All children, young people and adults should have access to the relevant knowledge and possess the necessary skills to develop their sexuality in a self-determined fashion and in a spirit of mutual respect;
- Skills upgrading: Since sexuality and emotions are not always the easiest topics for professionals in the fields of health, formal and non-formal education, counselling and orientation to address, such professionals must be equipped with necessary skills and knowledge in this area;
- Access for all, involving the diversification and sustainability of the delivery of services: It is crucial to ensure that the sexual and emotional health programme reaches the greatest number of persons, including disadvantaged segments of the population;
- Evaluation: It is important to take stock of the population's sexual health, evaluate the effects of the action programme and, where appropriate, adapt actions on the basis of the results obtained.

**(h)**

107. A number of NGOs in Luxembourg that are involved in development cooperation are carrying out prevention, protection and rehabilitation activities. The most active NGO in this area is ECPAT International, whose activities are dedicated exclusively to the elimination of child prostitution, child pornography and child trafficking for the purposes of sexual exploitation.

**(i)**

108. The Comité fir d'Rechter vum Kand (Ombuds Committee for Children's Rights) (ORK), which is an independent children's rights advocate, regularly makes suggestions to the Chamber of Deputies and to the Government. Accordingly, in its 2005 report, it publicly endorsed the recommendations of the Committee on the Rights of the Child following the consideration of the second periodic report of Luxembourg.

"28. While the Committee appreciates the measures taken by the State party to prevent and combat child pornography on the Internet, as well as the introduction of article 384 of the Criminal Code punishing the possession of pornographic material involving children, it remains concerned about the exposure of children to violence, racism and pornography, especially through the Internet.

29. The Committee recommends that the State party continue to take all appropriate measures to effectively protect children from being exposed to violence, racism and pornography through mobile technology, video movies, games and other technologies, including the Internet. The Committee further suggests that the State party develop programmes and strategies to use mobile technology, video advertisements and the Internet as a means for raising awareness among both children and parents of information and material injurious to the well-being of children.

#### 8. Optional Protocols to the Convention

The Committee welcomes the information that the State party is taking measures for the ratification of the Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography.

The Committee recommends that the State party complete this action as soon as possible in order to become party to the Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography."

109. In its 2009 report, the Ombuds Committee for Children's Rights welcomes the approval of the Optional Protocol and the fact that some articles of the Criminal Code have been brought into line with the Optional Protocol:

"In this connection, the Ombuds Committee for Children's Rights welcomes the fact that Bill No. 6046 approving the Council of Europe Convention on the Protection of Children against Sexual Exploitation and Sexual Abuse, which was opened for signature in Lanzarote from 25 to 27 October 2007, and the Optional Protocol to the United Nations Convention on the Rights of the Child on the sale of children, child prostitution and child pornography, and amending various articles of the Criminal Code and the Code of Criminal Procedure was deposited on 27 May 2009."

110. In its 2011 report, in a chapter entitled "Protecting children from sexual exploitation and sexual abuse", the Ombuds Committee for Children's Rights recalls that it is prohibited not only to buy but also to view films and images containing child

pornography. It also recalls the definition of sexual abuse and the definitions of the offences corresponding to child prostitution, child pornography, the corruption of children and child grooming.

111. The Ombuds Committee for Children's Rights recommends not turning a blind eye but rather reporting any situation that seems alarming or likely to have been injurious to a child.

“Although we understand that people might hesitate to contact the courts, the public prosecution service or the police straightaway, they could nevertheless, as a first step, convey their observations to the National Children's Bureau.

Adopting the cowardly attitude exemplified by the Luxembourgish proverb “Kemmer dech em Naischt, da year kennst Naischt!” (Don't get involved in something you wouldn't want to be involved in) could lead to a serious omission and, in some cases, even be punishable under criminal law. Failure to assist a person in danger is, quite rightly, an offence punished more severely than that of violating professional secrecy. The invocation of professional secrecy can never be used to justify the refusal to assist a child in danger. Moreover, there is no reason to fear that a complaint that subsequently proves to be unfounded could result in charges of slander or defamation. The establishment of such charges would actually require demonstrating that there had been malicious intent.”

112. The Ombuds Committee for Children's Rights wishes to express its concern at another situation that falls into the category of sexual abuse. It has received disturbing reports of students barely past the age of puberty, in other words around 16 years old, who were abused by teachers. Even if the girls in question were consenting at the time of intercourse — which has the effect of excluding any criminal proceedings — the Committee nevertheless takes the view that such an attitude on the part of persons who are generally much older and who clearly have authority over the teenage girls, is inadmissible from an ethical and even disciplinary point of view.

113. In its 2013 report, the Ombuds Committee for Children's Rights addresses the issue of the prevention of violence and sexual abuse:

*“The prevention of violence and sexual abuse against children*

Article 34 of the Convention on the Rights of the Child stipulates that: ‘States Parties undertake to protect the child from all forms of sexual exploitation and sexual abuse. For these purposes, States Parties shall in particular take all appropriate national, bilateral and multilateral measures to prevent:

- (a) The inducement or coercion of a child to engage in any unlawful sexual activity;
- (b) The exploitative use of children in prostitution or other unlawful sexual practices;
- (c) The exploitative use of children in pornographic performances and materials.’

In its observations on the report of Luxembourg, the Committee on the Rights of the Child states that every State party is required to adopt a national coordinating framework to address all forms of violence against children, including on the Internet.

Over the past few years, there have been a variety of initiatives that could contribute to the implementation of such a national plan.

*Legislative amendments*

The Chamber of Deputies amended the relevant legislation, namely by means of the Act of 16 July 2011 on the Protection of Children from Sexual Exploitation and Sexual Abuse, providing for the approval of the Council of Europe Convention on the Protection of Children against Sexual Exploitation and Sexual Abuse, which was opened for signature in Lanzarote from 25 to 27 October 2007, for the approval of the Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography and for the amendment of certain provisions of the Criminal Code and the Code of Criminal Procedure.

The Act introduces some new offences (criminalization of the solicitation of children through the Internet, criminalization of the sale and distribution to minors of violent materials that violate human dignity) and amends certain provisions of the aforementioned Codes that relate to indecent assault, rape, sexual exploitation of minors and the universal jurisdiction of the Luxembourg authorities.

*Images of sexual abuse on the Internet*

In cooperation with the police, the Bee Secure Stopline combats the proliferation of images of sexual abuse on the Internet. It is nevertheless regrettable that the definition of pornographic representation in the Criminal Code is such that sites showing children with their clothes on, but in sexualized contexts (see image at left) and poses (images at right), are hosted with impunity in Luxembourg. In this screenshot we have hidden their eyes. However, on the sites themselves, the children are perfectly recognizable. These children are also victims of abuse, even if at the time the pictures were taken they may not have realized what was happening to them.

The Ombuds Committee for Children's Rights is of the view that lawmakers must find a solution to this phenomenon, especially since the risk is that there will be an increasing amount of such material on the Internet or that teenagers or children themselves will take photos or videos of a sexual nature that risk falling into the hands of third parties who might use them for the purposes of sexual exploitation.

*Mechanism for reporting cases of the sexual exploitation of minors by 'sex tourists'*

ECPAT is preparing a campaign entitled 'Don't look the other way — be vigilant and report incidents of the sexual exploitation of children in travel and tourism'. The objective is to raise awareness among the general European public concerning the problem of the sexual exploitation of children in travel and tourism and to encourage people to report it through the appropriate mechanism. The Ombuds Committee for Children's Rights supports this initiative and hopes that the legal questions and practical modalities can be resolved quickly and that the mechanism can be set up soon.

*Platform for combating sexual abuse*

In 2011, spearheaded by ECPAT Luxembourg, 18 organizations and NGOs launched the Luxembourg Platform to Combat Sexual Abuse, abbreviated as PLCAS, the main objective of which is to develop and coordinate joint activities related to protecting minors from abuse, particularly sexual abuse. The platform set itself as a goal to compile best practices in the areas of abuse prevention and response in order to make these practices accessible through a reference system to all organizations and institutions working with minors.

*Reference system*

A working group<sup>1</sup> has developed a reference system for all forms of abuse of minors, with special emphasis on sexual violence. Its purpose is to help organizations assess their ability to meet their obligations and ensure that the minors entrusted to them are able to develop in as tranquil an environment as possible.

The system takes the form of a questionnaire that covers important topics related to abuse, and in so doing, helps institutions to formulate an effective selection strategy and then to identify their own most relevant objectives.

It also enables organizations to evaluate their level of awareness and preparedness in terms of protecting minors from all forms of abuse.

The best practices, which are the foundation of the reference system and which users will be able to download from a website during the second phase, will enable organizations to draw inspiration from the work carried out by others in a particular area and thus to progress more efficiently and quickly.

The self-evaluations and best practices will serve as the basis for exchanges and networking among the organizations with a view to increasing professional knowledge of the issue.

The reference system has been designed to include all organizations and institutions receiving or working with minors, irrespective of their size, legal structure, activity or any other consideration, including:

- Day-care centres and schools from preschool to secondary level;
- Clubs and all types of associations;
- Religious denominations and the organizations under their authority;
- Hospitals and organizations of medical and socio-family professions;
- Establishments receiving or visited by children, such as youth hostels, swimming pools, drop-in centres, transition centres, youth centres and extracurricular activity centres;
- Foster families and homes; and
- All persons who have been given responsibility for a minor.

The reference system has the potential to be a useful tool and is capable of being put into operation quickly, provided that human resources are applied to finalizing it. Specifically, it will be necessary to develop a website in order to make the evaluation questionnaire and best practices available. Eventually, the system will need to be completed by setting up an internal audit process.

*The National Plan of Action on Sexual and Emotional Health 2013-2016*

The reference system is consistent with steps that have been taken or are in the process of being taken; the Ombuds Committee on Children's Rights met with the Jacques Brocquart, Arcus, Caritas, Red Cross and Elisabeth boarding schools on the issue of preventing sexual violence against minors and their sexual abuse.

<sup>1</sup> The project steering committee is composed of Ms. Hannah Bristow (ECPAT Luxembourg); Ms. Marie-Josée Cremer (Association Luxembourgeoise pour la prévention des sévices à enfants — ALUPSE), Ms. Ulla Peters (University of Luxembourg, INSIDE — Integrative Research Unit on Social and Individual Development), Mr. Gary Kneip (National Institute for Sustainable Development and Corporate Social Responsibility — INDR/Union of Luxembourg Enterprises — UEL/ Luxembourg Trade Confederation — CLC) and Mr. René Schlechter (Kanner Jugendtéléfon).

The prevention of sexual abuse should logically also be included in the National Plan of Action on Sexual and Emotional Health 2013-2016. In it, reference is made to preventing domestic violence and recourse to prostitution, but there is regrettably no reference to preventing sexual violence.

Despite this gap, the Ombuds Committee on Children's Rights certainly welcomes this National Programme and Plan of Action, which is the result of an interministerial process conducted by the ministries of health, family and integration, education and equal opportunity, in cooperation with its main partners in this field, such as Planning Familial, Aidsberodung and the Psychological and Academic Orientation Centre (CPOS). The Ombuds Committee on Children's Rights will monitor the implementation of these proposed measures."

114. Lastly, the Ombuds Committee on Children's Rights reiterates its request for the establishment a National Centre for the Detection of Abuse.

## (14)

115. There are no specific methods used to identify particularly vulnerable children, such as street children, girls, children in remote areas and children living in poverty. There are, of course, organizations and associations whose specific aim is to provide, as far as possible, for the needs of these vulnerable persons.

116. Mention should be made of the Central Social Assistance Service (SCAS), which is a department of the Principal State Counsel's Office and therefore part of the judicial administration. It works under authority conferred by the court and under the supervision of the Principal State Counsel, which means that it takes instruction only from the courts or the judicial administration.

117. There is one exception to this: any victim of an offence may apply directly to the Victim Assistance Service.

118. The Central Social Assistance Service ensures compliance with judicial decisions, in accordance with laws, regulations or provisions on probation, youth protection, guardianship, article 100 of the Criminal Code and measures for the enforcement of sentences, parental authority, divorce, character reports, etc. Its psychologists, criminologists and probation officers, who have undergone training as social workers, oversee and assist defendants and bring a social and psychological dimension to the judicial system.

119. In its capacity as investigator and executant of the Juvenile Court, the youth protection service sees itself as a defender of the rights of the child. It conducts investigations for the juvenile court judge with full impartiality, free of any ideology and with diligence. The same is true of its work in providing educational assistance, the aim of which is the child's well-being.

## (15)

120. The Ministry of Foreign Affairs co-financed the activities mentioned below; they were carried out by ECPAT Luxembourg in the territory of Luxembourg from 2009 to 2013. A large part of these activities were also co-financed by the European Union.

### **Awareness-raising campaign aimed at the general public**

121. Between 2009 and 2011, ECPAT Luxembourg conducted an awareness-raising campaign on child prostitution, child sex tourism and child pornography whose objectives were the following:

- To raise awareness among the potential “clients” or “consumers” of the above-mentioned three forms of sexual exploitation and make them aware of their responsibilities, given that abusers have a tendency to minimize the consequences of their actions and rely on common preconceptions that are heavily influenced by prejudice;
- To promote existing national laws whose purpose is to repress the commercial sexual exploitation of children and to punish the perpetrators.

122. The campaign consisted of the following materials:

- An information brochure — The brochure provides travellers with an overview of the problem of child sex tourism, and in addition to its legal message, draws their attention to the impact of the problem on children and to the prejudices that lead to the sexual abuse of children in developing countries;
- Posters, banners and newspaper inserts — These tools are aimed at sending tourists a strong message about child sex tourism and raising their consciousness without asking them to take any action;
- An on-board video/television and Internet spot — This spot was produced in documentary style. Throughout the chain of abuse suffered by the victim, the traffickers’ faces are replaced with a mask of the end client’s face. In addition to revealing the hidden violence of such abuse, this creative concept serves as a direct illustration of the responsibility borne by “clients”, who are often unaware of the fact that they are condoning an entire system of violence;
- A radio spot — The spot parodies advertisements for provocative online dating services, then reveals the prison sentence awaiting persons charged with the sexual abuse of a minor.

123. Quantitative aspects: the following materials were disseminated as part of the campaign:

- 1,075,000 web banner ads;
- 125,000 postcards to raise awareness against child prostitution and child pornography;
- 23,500 leaflets to raise awareness against child sex tourism;
- 15,000 broadcasts of a video spot on Luxembourg television, on board LuxairTours flights and on YouTube to raise awareness against child sex tourism;
- 3,400 broadcasts in Luxembourg cinemas and on YouTube of a video spot condemning child pornography;
- 1,000 posters put up in the restrooms of bars, restaurants and fitness clubs in Luxembourg;
- 100 editorial articles/inserts published;
- 70 broadcasts on Radio Luxembourg of a spot against child prostitution;
- 40 placements of the campaign’s three print ads in Luxembourg newspapers and magazines;

- 7 radio interviews aired on Radio Luxembourg.

124. It is always difficult to quantify how many people have been sensitized as a result of such actions. Nevertheless, the study conducted by TNS ILRES Plurimedia 2011/2012 shows that the media outlets that disseminated the ECPAT Luxembourg campaign and/or that published articles discussing the issue of the sexual exploitation of children, reached up to 40.8 per cent of the Luxembourg population, accounting for 172,000 persons who reside or work in Luxembourg. In addition, 212,900 passengers travelled on LuxairTours aircraft in 2011 and therefore potentially saw the spot against child sex tourism.

### **Instructional exhibit**

125. ECPAT Luxembourg organized an instructional exhibit on the various aspects of the commercial sexual exploitation of children at the Luxembourg airport from 26 November 2010 to 12 January 2011. Using statistics, facts and first-hand accounts, the scourges of child trafficking, child pornography, child prostitution and child sex tourism were illustrated and explained in a series of 12 visual displays. The exhibit also presented a description of the perpetrators involved — both abusers and exploiters — and information on what could be done to combat such abuse. In 2011, Luxembourg Airport handled 1,791,255 passengers.<sup>2</sup>

126. The exhibition was also shown in several secondary schools in 2011 (Alexis Heck hotel school, Nordstadt secondary school and Diekirch Classical secondary school), as well as at the Cercle Cité cultural centre in 2012 during a conference on the exploitation of children through new technologies, which was organized by ECPAT Luxembourg in conjunction with Bee Secure. The Alexis Heck hotel school showed the exhibit during an evening organized at the school restaurant, to which the students' parents and the school's partner organizations were invited.

### **Public conference**

127. In partnership with Bee Secure Stopline and LISA Stopline, ECPAT Luxembourg organized a conference on the sexual exploitation of children through new technologies on the occasion of Safer Internet Day (7 February 2012). Approximately 60 people attended the conference.

### **School initiatives**

128. Campaigns aimed at tourism students are needed in order to inform and mobilize these future tourism professionals as early as possible. This further implies the need for campaigns aimed at tourism instructors, who are best placed to spread such information among a large number of students.

129. In 2009 and 2010, ECPAT Luxembourg designed and presented two modules on child sex tourism for some 40 tourism students at the Alexis Heck hotel school. In addition, ECPAT Luxembourg, in cooperation with Bee Secure, taught a module on the risks posed by new technologies in relation to the sexual exploitation of children at the Limpertsberg secondary school for boys.

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<sup>2</sup> Luxembourg Airport 2011 Annual Report.

## **Production and dissemination of a report on sex tourism involving minors in Brazil**

130. In 2010, ECPAT Luxembourg commissioned a documentary on the problem of child sex tourism in Brazil. The film conveys a straightforward message that is respectful of child victims and highlights the viewpoint of local professionals dealing with the problem. The video also describes the ties between child sex tourism in Brazil and Western Europe, without resorting to sensationalism. It was viewed 45,000 times on the Euronews and YouTube websites.

## **Film screenings**

### ***“Trade”***

131. In November 2010, on the occasion of its fifteenth anniversary and Universal Children’s Day, ECPAT Luxembourg showed a film entitled *“Trade”*, which was directed by Marco Kreuzpaintner and inspired by an article written by Peter Landesman for *The New York Times Magazine* on the sex trade in the United States. The film is an uncompromising exposé of child trafficking for the purposes of sexual exploitation.

### ***“Vers le Sud” (Heading South)***

132. In 2011, ECPAT Luxembourg worked together with SOS Children’s Villages International and Objectif Tiers Monde as part of the Cinéma du Sud film festival to show the film *“Heading South”*. This film, which was directed by Laurent Cantet in 2006, with actress Charlotte Rampling, shows a still relatively unknown aspect of sex tourism: that of Western women seeking young men in Haiti. Seventy-four spectators attended the screening, which was followed by a speech by Ms. Rodesch of the Ombuds Committee for Children’s Rights.

## **Sensitization/training of tourism professionals**

133. Tourism industry professionals are key players in the fight against child sex tourism. Given their central role in planning and executing travel, their involvement as the main providers of information to travellers or as whistle-blowers is crucial to the success of this fight.

134. With this in mind, in April 2010, ECPAT Luxembourg, in partnership with ECPAT France, organized a trip to Madagascar for tourism professionals as part of an exchange in which one staff member of LuxairGroup participated. The main objective of the trip was to allow the professionals to exchange experiences concerning their role in the battle against child sex tourism and, in particular, to allow professionals from a country where tourists originate to meet with professionals from a country where child sex tourism is practised.

135. In 2011, ECPAT Luxembourg organized a briefing for 10 hotel directors from the Accor Hotels Group in Luxembourg that was designed to sensitize and mobilize them in relation to the issue of the sexual exploitation of children in travel, as well as to establish a close partnership between Accor and ECPAT in Luxembourg. Following this initiative, in 2012, ECPAT Luxembourg organized three training sessions, which were attended by a total of 63 employees. Two additional training sessions for Accor are scheduled for October and November 2013.

136. With the assistance of ECPAT Luxembourg, LuxairGroup is raising awareness among its 2,400 employees.<sup>3</sup> For example, information on the campaign and events organized by ECPAT Luxembourg have been included in the internal newsletter *Flightplan* and on the company's portal.

137. ECPAT Luxembourg has made an online training module that was developed within the ECPAT network available to LuxairGroup for incorporation into the company's online training programme. LuxairGroup plans to activate the online training tool for some of its staff during an initial phase and to extend it to others subsequently.

138. ECPAT Luxembourg operated an information booth at the Vakanz tourism fair in January 2011 and in January 2012. The booth was located at the LuxairTours stand and thus enjoyed excellent visibility and direct contact with the company's potential customers.

139. Lastly, in June 2012, in cooperation with LuxairTours, ECPAT Luxembourg organized a conference for the country's tourism industry professionals in order to present the results of a national survey on the public's perception of the sexual exploitation of children, in particular child sex tourism and images of children being sexually abused. The conference was very successful: it was attended by some 20 tourism professionals, and two major Luxembourg tour operators subsequently contacted ECPAT Luxembourg in order to discuss possibilities for future collaboration.

#### **Sensitizing the media**

140. The press is a vital intermediary for the dissemination of information to the general public. Media outlets must therefore be made aware of the problem of the sexual exploitation of children and be included in campaigns to improve both the quantity and quality of the information being disseminated. With this in mind, in 2010, ECPAT Luxembourg, in partnership with ECPAT France, organized an exchange visit to Brazil for the members of the French and Luxembourg press corps. Three Luxembourg journalists participated in this exchange (one from Radio 100.7, one from *La Voix du Luxembourg* and one independent journalist who writes articles for various Luxembourg publications). The purpose of the visit was to provide an overview of the social situation in Brazil, the work of NGOs on behalf of children and the way in which the local media broach the issue.

141. In addition, ECPAT Luxembourg generally organizes one press conference each year on specific events or topics intended to raise awareness among the press of the various forms of child sexual exploitation and to encourage them to disseminate this information to the general public.

#### **Involving the private sector**

142. LuxairGroup participated as a partner in the aforementioned campaign, primarily by distributing leaflets at airport check-in counters, projecting the video spot on equipped aircraft and placing an insert warning against child sex tourism in its on-board magazine *Flydoscope*. It also published information about the campaign on its intranet, in its internal newsletter *Flightplan* and on its corporate website. LuxairGroup includes brochures on the sexual exploitation of children and the work of ECPAT Luxembourg in its welcome packages for new employees.

143. Each year during the Vakanz tourism fair, ECPAT Luxembourg sets up a booth at the LuxairTours stand. Its participation in the fair allows it to distribute leaflets and

<sup>3</sup> LuxairGroup Annual Report 2008.

talk to visitors. The Vakanz fair receives more than 20,000 visitors every year.<sup>4</sup> LuxairTours also raises funds for ECPAT Luxembourg during the fair by donating €10 for each reservation made during the fair.

144. Various Accor hotels in Luxembourg participated in disseminating some of the aforementioned materials used by the campaign against the sexual exploitation of children. ECPAT Luxembourg is in process of strengthening its partnership with Accor, particularly by developing and conducting customized training for its staff. Moreover, Accor Luxembourg and ECPAT Luxembourg are working together on an action plan that will enable Accor to sign and very soon implement the Code of Conduct for the Protection of Children from Sexual Exploitation in Travel and Tourism (available at [www.thecode.org](http://www.thecode.org)).

### **Role played by NGOs**

145. Associations and NGOs in Luxembourg play an extremely important role in protecting children from sale and sexual exploitation, particularly in terms of raising awareness and monitoring the implementation of the Convention on the Rights of the Child and its Optional Protocols.

146. For example, Bee Secure carries out numerous awareness-raising activities among children and young people, as well as among parents and teachers, on the risks associated with the use of new technologies.

147. A group was formed to draft a supplementary report on the implementation of the Convention on the Rights of the Child, two chapters of which were written by ECPAT Luxembourg on the topics of the sexual exploitation of children and child trafficking. ECPAT Luxembourg was also a member of the steering committee for the preparation of the report.

### **Evaluation**

148. In 2012, the Belgian consultancy firm ITECO evaluated the activities of ECPAT Luxembourg that were co-financed by the Luxembourg Ministry of Foreign Affairs.

149. According to the evaluation, the objectives of the first ECPAT Luxembourg project were very broad and ambitious, especially given the circumstances in Luxembourg and the capacity of ECPAT Luxembourg at the time. That being said, the report notes that ECPAT Luxembourg now has a better idea of the strengths, weaknesses, opportunities and obstacles or limits of the country's circumstances and general public.

150. ECPAT Luxembourg has managed to develop and strengthen partnerships with many public, private and civil society stakeholders; however, these partnerships have not been institutionalized and are still tenuous, insofar as they are still largely based on interpersonal relationships.

151. All the parties involved in the evaluation recognized the quality of the work carried out by ECPAT Luxembourg. The evaluators nevertheless point out that the organization's approach was oriented more towards communication (dissemination of tools and informative materials) than it was towards education, such as training activities that involve a greater investment of time and effort, in terms of achieving the stated educational goals of changing mentalities, attitudes and behaviours. Since it was not possible to measure the impact of the campaign on the target audience by means of interviews conducted with focal points during the evaluation, a recommendation was made to plan a new survey in 5 to 7 years' time in order to assess changes in mentalities.

<sup>4</sup> Vakanz 2012 Press release — Event wrap-up. Accessed in February 2012 at [www.luxexpo.lu](http://www.luxexpo.lu).

152. The Results-Oriented Monitoring (ROM) carried out by the European Commission at the midpoint of the first project resulted in a recommendation to replicate the ECPAT actions throughout the European Union. This has now become a reality as a result of a European project that was co-financed by the European Commission and implemented by ECPAT affiliates, including ECPAT Luxembourg. The Luxembourg Ministry of Foreign Affairs also co-finances activities that are carried out in Luxembourg.

**Funds received by the Ministry of Foreign Affairs for activities carried out on national soil by ECPAT Luxembourg to combat child sexual exploitation**

<i>Title of project</i>	<i>2011</i>	<i>2012</i>	<i>2013</i>
Provide information and training in Europe to protect children in developing countries from commercial sexual exploitation	5 700		
Let's join together to eliminate the commercial sexual exploitation of children!	96 973	8 625	
Don't look the other way — remain vigilant and report the sexual exploitation of children in travel and tourism!			12 410
<b>Total</b>	<b>102 673</b>	<b>8 625</b>	<b>12 410</b>

**Funds received by the Ministry of Foreign Affairs for activities carried out in developing countries by ECPAT Luxembourg to combat child sexual exploitation**

<i>Country/region</i>	<i>2011</i>	<i>2012</i>	<i>2013</i>
Latin America			
Latin America (regional)	32 691		
Brazil	300 000		
Southern Asia			
Bangladesh	111 730		
India		91 502	23 821
Nepal I	157 203		
Nepal II		221 250	
Pakistan I	90 379		
Pakistan II	269 545		
Africa			
Burkina-Niger		250 080	
Madagascar	188 421		
Mali III	291 943		263 013
Senegal	134 716	25 478	8 874
<b>Total</b>	<b>1 576 628</b>	<b>588 311</b>	<b>271 887</b>

153. The Ministry of Foreign Affairs also co-finances the administrative expenses of ECPAT Luxembourg (66 per cent of a ceiling of eligible expenses).

**(16)****(a)**

154. The sale of children, as defined in article 2 of the Optional Protocol, is not regulated as such by the Criminal Code, with the exception of the provisions relating to the personal status of children. (arts. 361 and ff. of the Criminal Code).

- The sale of children for the purposes of
  1. The sexual exploitation of a child is punishable under the following articles of the Criminal Code: Article 379 (Incitement to immorality); Article 379 bis (Procuring of minors); Article 382-1 (1) (Human trafficking), combined with article 382-2 (2), which establishes that the commission of the offence against a minor is an aggravating circumstance that increases the penalty;
  2. The transfer of a child's organs for profit is punishable under the following articles of the Criminal Code: Articles 382-1 (3) (Human trafficking), combined with article 382-2, which establishes, among other things, that the commission of the offence against a minor is an aggravating circumstance that increases the penalty;
  3. The engagement of a child in forced labour, is punishable under the following articles of the Criminal Code: Article 382-1 (2) (Human trafficking), combined with article 382-2, which establishes, among other things, that the commission of the offence against a minor is an aggravating circumstance that increases the penalty;
- The sale, in the context of inducing consent, as an intermediary, for the adoption of a child, does not appear to be regulated in conformity with the definition set out in article 2 of the Optional Protocol. The sale of a child for the purposes of adoption may, at most, be prosecuted on the basis of article 363 of the Criminal Code, which relates to the replacement of a child with another child, combined, where appropriate, with the abduction of a minor, but there is no specific offence on the sale of children, whether or not it occurs in the context of adoption.

**(b)**

155. The act of offering, obtaining, procuring or providing a child for child prostitution may be prosecuted under Criminal Code articles 379 and 379 bis, or article 382-1, combined with article 382-2 (Human trafficking).

**(c)**

156. The act of producing, distributing, disseminating, importing, exporting, offering, selling or possessing child pornography, as defined in article 2, for the purposes of child prostitution, are punishable under articles 379-2, 383 and 383 bis, of the Criminal Code.

157. Article 363: Concealment of birth, substitution of a child or attributing a child to a woman who has not given birth: imprisonment for a term of 5 to 10 years (Cf. Annex 1: Criminal Code, part VII, chap. III).

158. Articles 379 to 382: Exploitation of prostitution and procuring — penalties are prescribed according to the gravity of the offence: imprisonment for a term of 1 to 5 years and a fine (attempt is punishable); imprisonment for a term of 5 to 10 years and a fine if the offence is committed against a minor under the age of 16 (Cf. Annex 1: Criminal Code, part VII, chap. VI).

159. Articles 382-1 to 382-3: Human trafficking: Imprisonment for a term of 5 to 10 years or 10 to 15 years and a fine (Cf. Annex 1: Criminal Code, part VII, chap. VI-I).

160. Articles 382-4 to 382-5: Smuggling of migrants: Imprisonment for a term of 5 to 10 years and a fine (Cf. Annex 1: Criminal Code, part VII, chap. VI-I).

161. Articles 383 to 385 bis: Public indecency and specific provisions aimed at protecting young persons. Depending on the severity of the offence, the penalty can range from imprisonment for a term of no less than 8 days to no more than 5 years. Attempts to commit some of these offences are also punishable (Cf. Annex 1: Criminal Code, part VII, chap. VII).

162. Aggravating circumstances: the Luxembourg Criminal Code does not recognize any general aggravating circumstances. The following provisions are prescribed for offences that relate to the implementation of the Optional Protocol:

“Article 380. (Act of 16 July 2011) The minimum penalty prescribed by articles 379 and 379 bis shall be increased in conformity with article 266, and the maximum penalty may be doubled if: (Act of 21 February 2013)

(1) The commission of the offence has, deliberately or owing to grave negligence, endangered the life of the victim; or

(2) The offence was committed by exploiting the particularly vulnerable situation of a person, particularly as a result of his or her unlawful or precarious administrative status, unsettled social situation, pregnancy, illness, disability or physical or mental deficiency; or

(3) The offence was committed by means of the threat or use of force or other forms of coercion, abduction, fraud or deception; or

(4) The offence was committed by means of the offer or acceptance of payments or perks in order to obtain the consent of a person with authority over the victim; or

(5) The offence was committed by a legally recognized, natural or adoptive ascendant of the victim or by a person who has authority over the victim or who abuses the authority vested in him or her by virtue of his or her position; or

(6) The offence was committed by an officer or public official, a person exercising public authority or a law enforcement official in the exercise of his or her functions.

Article 381. (Act of 1 April 1968) In the cases referred to in articles 379 and 379 bis, persons who are found guilty shall also be liable to a fine of €251 to €15,000 and to deprivation of the rights set out in article 11 (1), (2), (3), (4), (5) and (7).

The courts may, for a period ranging from 1 month to 10 years, ban any person who is sentenced to a prison term of at least 1 month, from assuming the management or continuing to work as owner or manager of a hotel, boarding house or employment agency, or to be employed in them in any capacity whatsoever. Any infringement of this ban shall be punished by imprisonment for a term of 8 days to 1 month and a fine of €251 to €5,000, or by only one of these penalties.

(Act of 21 February 2013) In the cases referred to in paragraph 1, as well as in those referred to in articles 382-1 and 382-2, the courts may also ban convicted persons, either for life or for a maximum period of 10 years, from exercising any occupational, volunteer or social activity involving regular contact with minors. Any infringement of this ban shall be punished by imprisonment for a term of 2 months to 2 years.

If, in the cases referred to in paragraph 1, the offence was committed by the minor's father or the mother, the guilty party shall also be deprived of any rights and benefits granted to him or her by the Civil Code in book I, part IX entitled "Parental authority", in relation to the person and property of the child."

163. It should be noted that the recidivism provisions laid down in articles 54 to 57-3 of the Criminal Code are also applicable. (Cf. Annex 1: Criminal Code, book I, chap. V).

**(d)**

164. Cf. Annex 2: Articles 637 and 638 of the Code of Criminal Procedure. The statute of limitation for prosecution is 10 years for serious offences and 5 years for ordinary offences.

**(e)**

165. There are no specific provisions to be noted here. With regard to the implementation of the Optional Protocol, the offences defined in the following chapters of the Criminal Code may be considered as pertinent: part III of the Criminal Code, chapter IV (Kidnapping of minors), chapter V (Indecent assault and victims of rape), chapter VI (Exploitation, prostitution and procuring), chapter VI-I (Human trafficking) and chapter VII (Public indecency and specific provisions for the protection of young persons). (Cf. Annex 1: part III of the Criminal Code).

**(f)**

*Attempted offences*

166. In accordance with article 52 of the Criminal Code, attempted offences are punishable by the penalty immediately below that prescribed for the offence itself. In accordance with article 53 of the Criminal Code, an attempt to commit an offence that is characterized by law as an ordinary offence is punishable only if expressly prescribed by law.

*Complicity*

167. According to the provisions of article 66 of the Criminal Code, complicity is punishable as set out below:

"The following persons shall be punished as accomplices in a serious or ordinary offence:

Persons who give instructions to commit an offence;

Persons who procure weapons, tools or other means used to commit a serious or ordinary offence, knowing that they are intended to be used for that purpose;

Persons who, except in the case described in article 66, paragraph 3, knowingly aid or abet the perpetrator or perpetrators of a serious or ordinary offence in preparing, facilitating or committing the offence."

168. Furthermore, article 69 provides that "Accomplices in a serious offence incur the penalty immediately below that which they would have incurred had they been perpetrators according to the scale set out in article 52 of this Code. The penalty incurred by accomplices in an ordinary offence shall not exceed two thirds of that which they would have incurred had they been perpetrators."

*Joint principals*

169. Article 66 stipulates that:

“The following persons shall be punished as principals of a serious or ordinary offence:

Persons who execute or cooperate directly in its execution;

Persons who, by any means, provide any form of assistance without which the offence could not have been committed;

Persons who, by means of donations, promises, threats, abuses of authority or power, plots or deliberate deception, directly provoke the offence;

(Act of 8 June 2004) Persons who, whether by means of speeches made at meetings or in public places, or signs or posters, or printed or other written material that is sold or distributed, directly incite its commission, without prejudice to the final two provisions of article 22 of the Act of 8 June 2004 on the freedom of expression of the media.”

**(17)**

170. There is no legislation in force that Luxembourg considers to constitute an obstacle to the implementation of the Optional Protocol.

**(18)**

171. The criminal responsibility of legal persons is defined in chapter II-1 of the Criminal Code and may be engaged in relation to any offence under the Criminal Code or special statutes. This definition applies to serious and ordinary offences committed on behalf and in the interest of a legal person. Provisions stipulating penalties may be applicable in cases of human trafficking and procuring in terms of increasing the fine (article 37 of the Criminal Code). In certain cases, an order may also be made to dissolve the legal person.

172. Moreover, articles 379 ter and following of the Criminal Code prescribe a procedure for the temporary shutdown of an establishment in cases where the acts described in article 379 bis are likely to have been committed.

173. Lastly, there may be administrative consequences relating to the issuance of business permits by the Ministry of the Middle Classes, Tourism and Housing.

**(19)****(a), (b), (d), (e)**

174. Cf. Annex 1: Articles 363, 367-2 and 368 of the Criminal Code. Annex 5: Articles 343 to 370 of the Civil Code (part VIII — Adoption). Annex 6: Compilation of special statutes: Legislative and regulatory provisions relating to adoption, including international agreements.

175. Article 367-2 of the Criminal Code prescribes a penalty of imprisonment for a term of 8 days to 1 year and a fine for anyone who derives undue financial gain from an activity related to an adoption. According to article 361 of the Criminal Code, “any person who, having been present at a birth, fails to register the newborn child in conformity with articles 55, 56 and 57 of the Civil Code, shall be subject to

imprisonment for a term of 8 days to 3 months and a fine of €2,000, or to only one of these penalties". Article 368 prescribes a penalty of imprisonment for a term of 1 to 5 years for anyone who, by force, threats or deception, kidnaps a child or arranges for a child to be kidnapped. Article 363 prescribes a penalty of imprisonment for a term of 5 to 10 years for anyone found guilty of concealing the birth of a child, substituting a child for another or attributing a child to a woman who has not given birth.

176. Part VIII of the Civil Code contains numerous provisions on simple and full adoption. Article 343 stipulates that adoption can take place only if there are reasonable grounds for proceeding and only if it offers advantages for the adoptee. In accordance with articles 356 and 367-3 of the Civil Code, prospective adoptees who are older than 15 years of age must personally consent to their adoption.

**(c)**

177. The Act of 31 January 1998 on the Accreditation and Obligations of Adoption Agencies prescribes the conditions that such agencies must meet in order to obtain State accreditation in order to act as an intermediary in matters of intercountry adoption as defined in the Hague Convention. In Luxembourg, only non-profit legal persons may obtain such accreditation.

**(f)**

178. Adoption agencies that have been accredited in accordance with the provisions of the Act of 31 January 1998 are financed by the State and cannot charge any fees for their services to persons who request an adoption. Failure to comply with this principle results in a reduction of the State's financial contribution in the amount of the fees charged, the revocation of the funding agreement, and ultimately, the closure of the agency. Expenses for services rendered by third parties, such as the training of adoptive parents or translation of the case file, are charged to the adoptive parents.

**(20)**

179. (Intentionally left blank)

**(21)**

**(a) and (b)**

180. Cf. Annex 1. Articles 379 to 379 bis, 380 and 383 to 386, of the Criminal Code.

181. Articles 379 to 379 bis concern exploitation, prostitution and procuring, the victims of which are minors under the age of 18. The penalty prescribed for these offences is imprisonment for a term of 1 to 5 years and a fine. The Act also stipulates that attempts to commit these offences are punishable. Article 380 of the Criminal Code recognizes aggravating circumstances for violations of articles 379 and 379 bis and stipulates that the maximum penalty of 5 years' imprisonment may be doubled if one of the prescribed aggravating circumstances is applicable in a particular case.

182. Articles 383 to 386 of the Criminal Code concern public indecency and contain special provisions intended to protect young persons. The penalties prescribed differ depending on the gravity of the offences: the penalty of imprisonment is set at a term of no less than 8 days and no more than 5 years. In all cases, a penalty of imprisonment may be accompanied by a fine.

**(c) and (d)**

183. No particular information or comment.

**(22)**

184. Application of the principles of territoriality, of active personality for perpetrators of an offence committed abroad and of passive personality for victims of an offence suffered abroad: Annex 1: Article 3 of the Criminal Code; Annex 2: Articles 5, 5-1, 7, 7-1 and 7-2 of the Code of Criminal Procedure.

**(23)**

185. Application of the principles of active personality for perpetrators of an offence committed abroad and of passive personality for victims of an offence suffered abroad: Annex 2: Articles 5, 5-1, 7, 7-1 and 7-2 of the Code of Criminal Procedure.

**(24)**

186. The rules applicable to extradition are set out in national legislation, as well in multilateral and bilateral agreements.

187. It should be noted that national laws concerning extradition are subordinate to treaties concluded with other States and therefore apply only in the absence of a treaty with the State in question.

**National legislation**

- The Extradition Act of 20 June 2001 (Cf. Annex 7);
- Act of 17 March 2004 on the European Arrest Warrant and Surrender Procedures between Member States of the European Union.

**Multilateral conventions**

- 13 December 1957 — European Convention on Extradition;
- 15 October 1975 — Additional Protocol to the European Convention on Extradition;
- 27 June 1962 — Treaty between the Kingdom of Belgium, the Grand Duchy of Luxembourg and the Kingdom of the Netherlands concerning Extradition and Mutual Assistance in Criminal Matters;
- 14 June 1985 — Schengen Agreement and its implementing Convention;
- 10 March 1995 — Convention drawn up on the basis of Article K.3 of the Treaty on European Union, on simplified extradition procedure between the Member States of the European Union, signed at Brussels;
- 27 September 1996 — Convention drawn up on the basis of Article K.3 of the Treaty on European Union, relating to extradition between the Member States of the European Union, signed at Dublin;

- Act of 18 December 2007 — on approval of the United Nations Convention against Transnational Organized Crime, adopted by the United Nations General Assembly in New York on 15 November 2000.

### **Bilateral treaties**

- Bilateral treaties have been concluded with Australia, Belgium, Germany, the United States of America and the United Kingdom of Great Britain and Northern Ireland.

188. Note: The rules governing the European Arrest Warrant are applicable in matters of extradition between European Union member States. Extradition cases involving States non-members of the European Union are resolved pursuant to existing bilateral or multilateral treaties. The aforementioned Extradition Act of 20 June 2001 is applicable in all other extradition cases.

189. Since the entry into force of the Optional Protocol on 18 January 2002, Luxembourg has not received an extradition request for anyone suspected of having committed an offence covered by that instrument, whether on the basis of a European Arrest Warrant or a treaty concluded with a non-member State of the European Union. Likewise, Luxembourg has not requested the extradition of any person in connection with an offence covered by the Optional Protocol.

## **(25)**

190. For international agreements: Cf. reply given in section (24).

191. Note: The rules governing the European Arrest Warrant are applicable in matters of extradition between European Union member States. Extradition cases involving States non-members of the European Union are resolved pursuant to existing bilateral or multilateral treaties. The aforementioned Extradition Act of 20 June 2001 is applicable in all other extradition cases.

## **(26)**

### **(a)**

192. A general procedure of attachment is applied in such matters. It consists of the following: the seizure of objects, documents or belongings that were used to commit the offence, that were intended to be used to commit it or that were the object of the offence; anything that appears to have resulted from the offence; anything that appears to be useful for elucidating the truth or whose use would be likely to hinder the progress of the investigation; and anything liable to confiscation or restitution.

193. This measure applies in cases where a serious or ordinary offence is discovered while it is being committed or immediately thereafter (cf. Annex 2, art. 31, Code of Criminal Procedure) or in the event a judicial investigation is ordered by an investigating judge (cf. Annex 2, art. 66 of the Code of Criminal Procedure).

194. Immovable property may also be seized (cf. Annex 2, art. 66-1 of the Code of Criminal Procedure) by decision of the investigating judge.

195. The seizure of bank accounts is provided for under articles 66-2 and following of the Code of Criminal Procedure (cf. Annex 2). The list of acts to which the articles relating to the seizure of bank accounts are applicable include: human trafficking,

procuring, prostitution and exploitation of human beings, within the meaning of articles 379 to 386 of the Criminal Code (cf. Annex 1).

196. The confiscation of the property referred to previously is carried out in accordance with article 31 of the Criminal Code (cf. Annex 1, art. 31).

197. There are no particular comments to make with regard to practice in this area. Practice is in keeping with the prescribed legal provisions.

**(b)**

198. Seizure and confiscation of the proceeds derived from the commission of such offences:

Same as item (a), with the additional stipulation that both indirect seizure and indirect confiscation may be carried out, particularly when the offences covered by the Optional Protocol are primary offences relating to money laundering, including the offences defined in articles 368 to 370, 379, 379 bis, 382-1, 382-2, 382-4 and 382-5 of the Criminal Code (cf. Annex 1, art. 32-1 of the Criminal Code).

**(c)**

199. Closure of premises and international mutual legal assistance

- Temporary closure is governed by article 379 ter of the Criminal Code, and permanent closure by article 379 septies of the Criminal Code (cf. Annex 1, arts. 379 ter and 379 septies);
- International mutual legal assistance in criminal matters is provided on the basis of international mutual assistance treaties (European Convention on Mutual Assistance in Criminal Matters of 1959, Schengen, conventions adopted at the European and international levels);
- The procedure for registering the judgements handed down under the criminal law of other States is governed by articles 659 and following of the Code of Criminal Procedure; it is followed when acts covered by the Optional Protocol are at issue (cf. Annex 2, arts. 659 and ff. of the Code of Criminal Procedure).

**(27)**

**(a)**

200. The principle of the best interests of the child is reflected in several pieces of legislation that apply to child witnesses or victims:

- The Act of 20 December 1993 providing for the approval of the Convention on the Rights of the Child, which was adopted by the United Nations General Assembly on 20 November 1989, and for the amendment of certain provisions of the Civil Code, in order to insert between chapters I and II of book I, part X, of the Civil Code, a chapter I-1 entitled “Court hearings involving children and the defence of their interests”, which contains an article 388-1 stipulating that “in all proceedings that concern him or her, a minor may, without prejudice to the provisions governing his or her intervention or consent, be heard by the judge or the person designated for this purpose, provided that the minor’s age or condition so permit. In addition, “A minor’s request for a hearing may be denied only on the basis of a specially reasoned decision. This decision may be appealed only in conjunction with the decision on the merits of the dispute. Minors may be accompanied by a person of their choice.” (Cf. Annex 5, art. 388-1 of the Civil Code);

- The Act of 5 June 2009 providing for (1) the amendment of article 37-1 of the amended Legal Profession Act of 10 August 1991; (2) book I, part X, chapter I, of the Civil Code; and (3) article 1046 of the new Code of Civil Procedure; amended article 388-1 of the Civil Code to read:

“Article 388-1.

(1) In all proceedings that concern him or her, a minor capable of discernment may, without prejudice to the provisions governing his or her intervention or consent, be heard by the judge or, when his or her interests require it, the person designated by the judge for this purpose.

(2) This hearing shall be granted as a matter of right when requested by a minor. In the event a minor refuses to be heard, the judge shall assess the merits of such refusal.

(3) Minors may be heard alone or accompanied by a lawyer or a person of his or her choice. If this choice does not appear to be in keeping with the interests of the minor, the judge may designate another person.

(4) Hearings of minors shall take place in the judge’s chambers.

(5) The hearing of a minor shall not confer on him or her the status of a party to the proceedings.”

201. Article 388-2 was inserted after article 388-1 of the Civil Code and reads:

“Article 388-2. In the event that, during a proceeding, a minor’s interests appear to be in opposition to those of his legal representatives, the guardianship judge or the presiding judge shall, in accordance with the conditions laid down in article 389-3, appoint an ad hoc administrator to represent the minor.” (Cf. Annex 5, arts. 388-1 and 388-2, of the Civil Code).

202. Article 37-1 of the amended Legal Profession Act of 10 August 1991 was amended to read:

“Applicant minors involved in judicial proceedings shall be provided with legal assistance independently of the financial situation of their parents or of persons living in the same household with them, without prejudice to the State’s right to demand reimbursement of the expenses it incurs in providing legal assistance to the minor from his or her father or mother who have the means to pay for it.”

203. Article 18 of the amended Youth Protection Act of 10 August 1992 reads as follows:

“In all other cases, where dictated by the interests of the minor, the juvenile court judge shall appoint an attorney for the minor. If a juvenile court appoints an attorney for a person who claims to be entitled to legal aid and requests such aid, the court shall refer the request to the chairman of the bar. The juvenile court may also refer to the chairman of the bar in cases in which an attorney has been appointed for the minor.”

204. In order to complement the apparatus for the protection of children’s (procedural) rights, the Act of 6 October 2009 on Strengthening the Rights of Victims of Criminal Offences provided for the insertion of an article 41-1 in the amended Youth Protection Act of 10 August 1992, which reads as follows:

“Art. 41-1. The public prosecutor or the examining judge, having under consideration acts committed intentionally against a minor, shall designate an ad hoc administrator chosen from the court’s list of lawyers published by the bar association, where the interests of the minor are not fully protected by at least one of his or her legal representatives. The ad hoc administrator shall protect the

interests of the minor and, where appropriate, exercise the rights of the plaintiff on his or her behalf.”

**(b)**

205. Although there are no specific cases to report, it is worth noting that the 1992 Youth Protection Act (cf. Annex 8) is the applicable legislation. Temporary custody may be ordered by the State Counsel’s Office in an emergency in the absence of the youth court judge, or by the youth court judge at the request of the State Counsel’s Office. The police may be ordered by the State Counsel’s Office to carry out the measure in cases where it is deemed necessary for the child’s safety. The care setting is chosen as a function of the child’s age, the nature of the acts in question and the child’s family ties or other relations.

206. The procedure for bringing a perpetrator to justice varies according to the facts and circumstances at issue. Except in the case of a serious or ordinary offence that is discovered while being committed or immediately thereafter, for which the public prosecution service is authorized to make an immediate arrest and to undertake a house or other type of search and seizure, the procedural options available to the examining judge before whom the matter is laid by means of a written accusation presented by the public prosecutor include the following: a summons for the alleged perpetrator to appear before the investigating judge; a warrant to bring the suspect before the investigating judge or public prosecutor immediately and the subsequent issuance of a detention order; or court supervision subject to stringent conditions. If the person cannot be located, the examining judge issues a European Arrest Warrant or an international arrest warrant and reports the person through the Schengen system and/or to Interpol for the purpose of obtaining his or her arrest and extradition to Luxembourg.

**(c)**

207. Child victims or witnesses are not kept in police or detention facilities since they are not accused persons. Specific provisions are applicable to minors, as described in items (a) and (b). These provisions are intended to ensure respect for the best interests of child victims and witnesses, inasmuch as they include hearings, as a matter of right, of minors who request them; hearings held in camera; or the possibility of a making a sound or audiovisual recording of a minor’s hearing.

**(d)**

208. No specific requirements for temporary placement. The legal framework is similar to that described in item (b).

**(e)**

209. See item (a).

210. With regard to the rights of the child, mention should be made of bill No. 6562, which strengthens the rights of victims of human trafficking and incorporates Directive 2011/36/EU. This bill also contains provisions concerning the rights of child victims of human trafficking.

**(f)**

211. See item (a) for information on the progress made in relation to the right of children to express themselves.

212. Note should also be taken of article 48-1 of the Code of Criminal Procedure concerning the procedure to be taken in hearings of minors who are victims of the offences covered by the Optional Protocol (cf. Annex 2, art. 48-1 of the Code of Criminal Procedure).

**(g)**

213. The Central Social Assistance Service (SCAS) is a department of the Principal State Counsel's Office, and is therefore part of the judicial administration.

214. It operates under authority conferred by the court and under the supervision of the Principal State Counsel, which means that it takes instruction only from the courts and the judicial administration.

215. There is one exception: any victim of an offence may apply directly to the Victim Assistance Service.

216. The Central Social Assistance Service ensures compliance with judicial decisions in accordance with laws, regulations or provisions on probation, youth protection, guardianship, article 100 of the Criminal Code and measures for the enforcement of sentences (such as electronic bracelets), parental authority, divorce, character reports, etc. Its psychologists, criminologists and probation officers, who have undergone training as social workers, oversee and assist defendants and bring a social and psychological dimension to the justice system.

217. In its capacity as investigator and executant of the Juvenile Court, the youth protection service sees itself as a defender of the rights of the child. It conducts investigations for the juvenile court judge with full impartiality, free of any ideology and with diligence. The same is true of its work in the area of educational assistance, the aim of which is the child's well-being.

**(h) and (i)**

218. There are no special provisions in Luxembourg law on a witness protection programme, whether for adults or minors.

219. It is nevertheless important to stress that, with regard to the protection of victims of any of the offences covered by the Optional Protocol, the security of children has been strengthened, inasmuch as, in practice, the name and identity of the minor are not revealed in either summons to hearings, or conviction or acquittal judgments or decisions.

220. If the minor is a victim of one of the constituent offences of human trafficking (Cf. Annex 1: arts. 382-1 and 382-2 of the Criminal Code), the provisions of the Act of 8 May 2009 on Assistance, Protection and Security of Victims of Human Trafficking amending the new Code of Civil Procedure are applicable. In accordance with article 2 of this Act, and with a view to the victim's physical, psychological and social rehabilitation, he or she is granted, in accordance with his or her needs, a lodging and social and socio-educational, material, financial, medical, psychological or therapeutic assistance.

221. Article 3 of the Act further provides that a victim who is an unaccompanied minor of foreign nationality and who is not under the legitimate care of a responsible adult who ensures his or her safety and protection is to be represented by a guardian as long as this situation continues or until such time as the minor is placed under the responsibility of an authority of his or her country of origin who must act in the minor's best interests.

**(j)**

222. The internal organization and degree of specialization at all levels of intervention in a case means that each case is handled with diligence:

- Police: Criminal Investigation Service — youth protection section: specialized investigators are trained in interviewing techniques for child victims;
- State Counsel's Office — youth protection department: judicial officers are specialized and receive training;
- Investigating judges are specialized in the field;
- Juvenile court judges are on call for emergencies relating to the placement of a child.

**(28)****(a)**

223. In cases where the victim's precise age is not known, an X-ray is taken of the victim's hand in order to help make a more precise determination of his or her age. However, no special institution is responsible for performing these exams. Minors are placed under the care of a general practitioner, a paediatrician or a doctor specializing in radiology so that the necessary exams for determining his or her age can be carried out.

**(b)**

224. When there is doubt as to the age of a person who might be a minor, he or she is automatically considered to be a minor and is eligible for all the protection measures provided for in the Convention on the Rights of the Child.

**(c)**

225. The X-ray exam is performed by a qualified radiologist.

**(29)**

226. See section (27) above, including the answers to items (f) and (j).

227. To this may be added the establishment of courts with competence to ensure the best interests of the child, the number of judicial officers assigned to handling cases involving child victims (7/30) and investigators with a specialization in this field who work in the Criminal Investigation Service or the regional criminal research and investigation services of the Police, whose work focuses exclusively on the judicial processing of such cases.

**(30)****(a)**

228. The appointment of an ad hoc administrator or children's attorney was described in 27 (a) above.

**(b) and (c)**

229. Please see articles 48-1 and 79-1 of the Code of Criminal Procedure (cf. Annex 2, arts. 48-1 and 79-1 of the Code of Criminal Procedure) concerning the mandatory hearing of child victims.

230. Article 48-1 of the Code of Criminal Procedure provides that, with the authorization of the State Counsel, an audio or audiovisual recording may be made of the hearing of any minor. Such recordings may be made only with the consent of the minor, provided that he or she has the necessary level of discernment, or failing this, with the consent of his or her legal representative.

231. Article 79-1 of the Code of Criminal Procedure provides that the same provisions are likely to apply in cases being handled by an investigating court.

**(d)**

232. Information is provided to the child by his or her ad hoc administrator or children's attorney.

**(e)**

233. Please see article 76 of the Code of Criminal Procedure, which stipulates that children under the age of 15 are to be heard without being placed under oath (cf. Annex 2, art. 76 of the Code of Criminal Procedure).

234. Articles 48-1 and 79-1 of the Code of Criminal Procedure (cf. Annex 2, section 27 (f)) above), set forth the rules for hearings of child victims. They also address conflicts of interest and the means for resolving them.

**(f)**

235. Certain associations enjoy the right to sue for damages in criminal proceedings in cases involving a minor who is a victim of human trafficking. Please see article 3-1 of the Code of Criminal Procedure for details of this procedure (cf. Annex 2, art. 3-1 of the Code of Criminal Procedure).

**(31)**

236. Judicial officers of the youth protection department of the State Counsel's Office and juvenile court and guardianship judges follow training programmes at the Legal Service Training College of France.

237. The investigators of the Criminal Investigation Service undergo training in interviewing techniques and child psychology in Switzerland, Germany and Belgium.

**(32)**

238. No attacks or threats have been registered.

**(33)**

239. Such measures do not exist.

**(34)**

240. Currently, there are no public or private programmes designed to provide social reintegration assistance to child victims of sale, prostitution and pornography, since the needs of such children are currently provided for under the general framework of child protection, in application of the Youth Protection Act, and there is no specific or pre-established approach taken with regard to child victims of trafficking. Unaccompanied foreign children are assigned an ad hoc guardian as soon as possible (article 92 of the amended Act on Free Movement and Immigration and article 3 of the Act on Assistance, Protection and Safety of Victims of Human Trafficking) to assist them, if necessary, in criminal proceedings initiated against traffickers. As the supervisory staff of the reception centres where these children are placed have not been trained specifically to assist victims of trafficking, the children are assisted by the Human Trafficking Victim Support Service of the association Femmes en Détresse.

241. This service provides psychological support, assistance in completing formalities (legal, judicial, police, hospital, embassy, etc.) and information on the human trafficking victims' rights, judicial and administrative procedures and available benefits (safe accommodation, judicial assistance, etc.). In addition, this service contacts NGOs in the victim's country of origin in the case of voluntary return.

242. Girl victims of human trafficking are provided accommodation at the Meederchershaus (Femmes en Détresse), the Foyer Noémi or the Refuge Péitrusshaus (Solidarité Jeunes), where they are looked after by the educators of the respective homes.

243. Since 2010, the Human Trafficking Victim Support Service has been looking after four girls between the ages of 14 and 18, including three victims of human trafficking for the purposes of sexual exploitation and one for the purposes of labour exploitation (restaurant catering and domestic work). The four girls were provided accommodation at the Meederchershaus or in one of the foster homes of the Solidarité Jeunes Association. They were looked after and assisted by educators in these shelters, as well as by staff members of the Human Trafficking Victim Support Service. One girl returned to her country of origin, another went to Belgium, one lives and works in Luxembourg and one is still living in a shelter.

244. The Fondation Maison de la Porte Ouverte operates two foster/temporary homes, the Don Bosco, which has a capacity for 10 adolescents, and the St. Joseph, which can accommodate up to 9 child or adolescent victims of sale, prostitution or pornography.

245. The consultation and accommodation services of Pro Familia Fondation are also ready to receive child victims of human trafficking, but so far they have not received any definitive requests.

**(35)**

246. Such measures do not exist in the national legislation.

**(36)****(a)**

247. We do not have exact figures for this.

248. It should be noted, however, that, on the basis of the principle of the equality of all persons before the law, which is enshrined in the Constitution of Luxembourg, no

distinction is made between the assistance provided to children who are or are presumed to be nationals of the State party and those who are not or whose nationality is unknown. In addition, article 454 of the Criminal Code prohibits any form of discrimination based on nationality and prescribes criminal sanctions for failure to comply with this provision. (Cf. Annex 1, art. 454 of the Criminal Code).

249. One case of forced labour and one case of prostitution have been reported, and one case of child trafficking is currently under examination.

**(b)**

250. To date, there have been no repatriations of child victims.

**(c)**

251. No agreements on the repatriation of victims have been concluded.

**(37)**

252. The procedural rules of common law are applied. Victims may lodge a complaint with an official of the Criminal Investigation Service, in accordance with article 11 of the Code of Criminal Procedure. Similarly, article 23 of the Criminal Code stipulates that the State Counsel is to receive complaints and reports of wrongdoing and to determine the appropriate course of action in response to them. Lastly, as provided for in article 56 of the Code of Criminal Procedure, victims may lodge a complaint and sue for damages in criminal proceedings before the competent investigating judge (cf. Annexes 1 and 2).

**(a)**

253. No, victims cannot obtain compensation under civil law unless the perpetrator has been found guilty of the criminal charges brought against him or her.

**(b)**

254. The child's right to counsel: The Act of 5 June 2009, amending the Legal Profession Act of 10 August 1991, provides that a minor involved in legal proceedings is automatically entitled to receive legal assistance, regardless of the financial circumstances of his or her parents. This provision will certainly facilitate children's access to the services of an attorney.

255. In addition, article 18 of the Youth Protection Act of 10 August 1992 provides that a juvenile court may appoint an attorney to defend the interests of a minor in all cases in which the interests of the minor so dictate.

256. This article is interpreted as having a general scope. This means that the juvenile court judge can appoint a lawyer not only where a minor is involved in judicial proceedings relating to youth protection but also in any other proceedings in which a minor is involved.

257. Public prosecutors regularly invoke article 18 in order to request the juvenile court judge to appoint an attorney or an ad hoc administrator for child victims of abuse or sexual abuse, so as to ensure that they are assisted and represented by an attorney in the criminal proceedings brought against the perpetrator.

258. This procedure has recently been facilitated by the entry into force on 1 January 2010 of the Victims of Criminal Offences Act of 6 October 2009. Article 32 of the Act supplements the 1992 Youth Protection Act with an article 41-1, whereby the State

Counsel or the investigating judge, being called upon to examine wilful offences committed against a minor, may appoint an ad hoc administrator to defend the minor's interests and represent him or her in court.

**(c)**

259. Not applicable.

**(d)**

260. There is no difference between the applicable procedures.

**(e)**

261. Not applicable.

**(f)**

262. Please refer to articles 637 and 638 of the Code of Criminal Procedure (cf. Annex 2, arts. 637 and 638 of the Code of Criminal Procedure), which stipulate that, for the offences defined in articles 372 to 377, 379 and 379 bis, 382-1, 382-2, 400, 401 bis, 402 and 405 of the Criminal Code (cf. Annex 1), the statutory limitation for prosecution starts running from the date on which the victim reaches the age of majority.

**(g)**

263. Application of the rules on guardianship, as set out in articles 389 and following of the Civil Code (cf. Annex 5, arts. 389 and ff. of the Civil Code). Article 450 of the Civil Code stipulates that the guardian must administer the minor's property as would a good father and answer for any damages resulting from its mismanagement. According to article 457 of the Civil Code, the guardian must obtain the prior approval of the board of guardians before carrying out legal transactions relating to the disposal of rights or property on behalf of the minor.

**(h)**

264. Not applicable.

**(i)**

265. In fulfilment of the principle of the equality of all before the law, the treatment afforded victims of the offences covered by the Optional Protocol is not different if they are non-nationals or possibly non-nationals, of Luxembourg.

**(j)**

266. No information is available on this matter.

**(k)**

267. The State considers the remedies and procedures in force to be sufficient to ensure the protection of the rights of children who are victims of the offences covered by the Optional Protocol.

**(38)****(a)**

268. It should be noted that the Optional Protocol was ratified by the same enabling legislation as the Council of Europe Convention on the Protection of Children against Sexual Exploitation and Sexual Abuse (known as the Lanzarote Convention). This legislation was signed on 7 July 2009 and entered into force for Luxembourg on 1 January 2012.

269. There are no bilateral or multilateral agreements to be noted.

**(b)**

270. Not applicable.

**(c)**

271. Not applicable.

**(39)**

272. In order to step up cooperation in the fight against crime within the European Union, the Council set up Eurojust by means of Decision 2002/187/JHA. This is a body of the Union with legal personality that has competence regarding investigations and prosecutions of serious crime concerning at least two member States. The role of Eurojust is not only to promote coordination between competent authorities in various European Union member States, but also to facilitate the execution of requests and decisions relating to judicial cooperation. Eurojust may fulfil its task through one or more of the national members or as a college. Eurojust may, among other things, ask the authorities of the member States concerned to undertake an investigation or prosecution, set up a joint investigation team or take special or other investigative measures.

273. Mention should also be made of the establishment of the European Arrest Warrant, which is a judicial decision issued by the competent judicial authority of a European Union member State for the arrest and surrender of a wanted person by the competent authority of another member State for the purpose of conducting a criminal prosecution or enforcing a sentence or a security measure involving the deprivation of liberty.

**(40)**

274. Luxembourg has for many years supported NGO activities in the areas covered by the Optional Protocol by means of its development cooperation.

275. In terms of the amount of funds allocated, its main partner is ECPAT Luxembourg. ECPAT Luxembourg focuses its efforts on three main areas:

- In the North, and especially in Europe — the prevention of child sex tourism;
- In the South — support for anti-poverty programmes in high-risk areas so as to prevent children from turning to prostitution;

- Also in the South — the development of or support for programmes in favour of children and families affected by child prostitution, such as projects relating to education, psychosocial recovery and training.

276. The projects financed by development cooperation concern the regions of both the North and the South. They typically consist, on the one hand, of strengthening the protection of vulnerable children and young adults and preventing sexual abuse, exploitation and trafficking by offering a better social environment and specially adapted education and vocational training and by enhancing the response capacity of communities, and on the other, of establishing sustainable procedures for psychological and economic rehabilitation.

277. The Government's partnership with ECPAT Luxembourg dates back to 1999.

278. In the past few years, Luxembourg has co-financed projects launched by ECPAT Luxembourg in countries of the South in the amount of an estimated annual average of €1 million.

279. Five projects are currently under way. They concern the following countries: Nepal, Mali, Benin, Burkina Faso, Niger, India and Senegal.

280. One example of a successful accomplishment is the regional project in Benin, Burkina Faso and Niger, which runs from 1 July 2011 to 1 July 2014 and which is being carried out in conjunction with the donors ECPAT France and the French Development Agency.

281. Some quantitative aspects:

- 50,000 people have been sensitized to the phenomenon of trafficking in these countries;
- 325 young people originally from or intercepted in these countries have been given access to some form of training;
- 15 crisis centres in these countries have placed 460 children in a foster family;
- All partners have participated in workshops for exchanging experiences.

282. Some expected outcomes:

- 1,000 children will have been informed of their rights and receive training in how to protect themselves from trafficking and exploitation;
- 650 key persons will have been made aware of the issue of the talibe children;
- Time spent living on the streets will have been reduced by 50 per cent for 150 young people;
- 160 children will have been enrolled in formal or non-formal education;
- 460 children will have been provided care at the 15 supported centres and will have subsequently been repatriated.

## (41)

283. Development cooperation is an important vehicle for outreach efforts undertaken abroad by Luxembourg. It is an expression of international solidarity and, at the same time, serves the common interests of both the State's development partners and its own interest in mitigating, among others, the negative effects of poverty.

284. The vulnerability of children to sale, prostitution, pornography and sex tourism is clearly linked to the poverty of certain populations.

285. The main objective of Luxembourg in the area of development cooperation is to reduce and eventually eradicate poverty by providing support for the sustainable economic, social and environmental development of developing countries. This objective is met through both bilateral and multilateral efforts.

286. The above-mentioned vulnerability of children is also linked to the lack of legal mechanisms for protecting children from these scourges or the lack of means for implementing them effectively, and in some cases, the absence of the rule of law. For this reason, the cooperation provided by Luxembourg also acts in a cross-cutting fashion to promote human rights and strengthen good governance.

287. Luxembourg advocates the following:

- The integration of human rights and governance in development cooperation efforts;
- The integration of human rights, governance, democracy and the rule of law in the post-2015 development agenda;
- Gender equality and the empowerment of women and girls.

288. Education and vocational training are among the chief focuses of the bilateral and multilateral cooperation programme of Luxembourg. Education and vocational training for children and young people, as well as the education of parents/adults, help to reduce young people's vulnerability to sale, prostitution, pornography and sex tourism. Except for several bilateral programmes, education and vocational training are supported through multilateral efforts, and more specifically through significant contributions to the United Nations Children's Fund (UNICEF), the United Nations Population Fund (UNFPA) and the International Labour Organization (ILO), among others. Another main focus of the cooperation programme of Luxembourg is health; interventions in this sector help to mitigate the health impact of children's involvement in sexual acts. Health education and access to sexual and reproductive health services, but also to basic health services, are important factors in this area. Luxembourg is a major donor in the health sector, at both the bilateral and multilateral levels. As to interventions that have an impact on child victims of sale, prostitution, pornography and sex tourism, it should be noted that Luxembourg has made contributions to UNICEF, UNFPA, UNAIDS and the Global Fund.

## **(42)**

289. The Optional Protocol was signed by Luxembourg on 8 September 2000 and ratified by means of the Act of 16 July 2011 providing for its approval. Its instrument of ratification was deposited on 2 September 2011.

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