



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

### **Initial Report of the Principality of Liechtenstein**

Answers to the questions raised in the list of issues

- 1. Please indicate whether national courts have jurisdiction in cases of forced recruitment or involvement in hostilities of a person under 18 years if committed outside Liechtenstein, by or against its citizens.**

Article 64 of the Liechtenstein Criminal Code provides for the possibility to prosecute criminal offences which have been committed abroad by persons living in Liechtenstein (i.e. not only Liechtenstein citizens), irrespective of whether the acts are also criminalized in the country concerned. Article 279 on armed groups is not included in the list of offences covered by this provision. However, article 104a on human trafficking is explicitly mentioned.

The provision on human trafficking has been inserted into the Criminal Code in 2007. Article 104a provides for imprisonment of up to 10 years for anybody who recruits, houses, transports, offers or hands over a child to another person with the intention of sexual or labour exploitation. According to the ILO definition the recruitment of children has to be seen as forced labour. A broad interpretation of the expression "labour exploitation" has also been the intention of the Liechtenstein Parliament when adopting the new article. In the explanatory report it says that exploitation is always given when vital interests of the victim are extensively and sustainably oppressed. Furthermore, the benchmark for the vital interests of minors has to be higher, as the protection of their unhindered sexual and moral development must be assured. With this understanding, article 104a together with article 64 of the Liechtenstein Criminal Code would constitute the main legal basis to establish the jurisdiction of Liechtenstein courts in case the recruitment of a child was committed abroad.

So far, there have not been any legal proceedings before a Liechtenstein court in such a case.

- 2. Please describe the law, policy and practice of the State party concerning the extradition of persons accused of having committed offences referred to in the Optional Protocol. In particular, please describe the legal basis, including international agreements, for cooperation with other States with regard to investigations.**

Extradition from Liechtenstein is principally based on article 11 of the Liechtenstein Act on Mutual Legal Assistance (Liechtenstein Law Gazette 2000 No. 215, LR 351). In addition, in the relationship with European countries article 2 of the European Convention on Extradition

also applies. The criminal offence for which extradition is sought has to be punishable both in Liechtenstein and in the requesting State with imprisonment of more than one year. The acts falling under article 279 of the Liechtenstein Criminal Code on armed groups are punishable with imprisonment of up to three years. Article 104a on human trafficking provides for imprisonment of up to 10 years for anybody who recruits, houses, transports, offers or hands over a child to another person with the intention of sexual or labour exploitation.

Extradition of a Liechtenstein citizen is only possible with his or her express consent; but if there is no consent, the Public Prosecution Service may – if there is a request from a foreign country – take over the foreign proceedings and open domestic proceedings in this matter against the Liechtenstein citizen. There are other reasons to refuse a request for extradition, such as lacking guarantees for procedural standards in line with the European Convention on Human Rights, the risk of prosecution for reasons of origin, race, religion, affiliation with a certain group of the population or society, nationality or political beliefs or the risk of being sentenced to death.

According to article 51 of the Liechtenstein Act on Mutual Legal Assistance legal assistance can be provided when the act is a criminal offence according to the Liechtenstein law, whereby no minimum penalty is required. In relationship with European countries article 5 of the European Convention on Mutual Assistance in Criminal Matters (Liechtenstein Law Gazette 1970 No. 29, LR 0.351.1) applies. Here the offence for which legal assistance is sought has to be punishable both in Liechtenstein and in the requesting State.

The Liechtenstein Act on Mutual Legal Assistance provides for the possibility of rendering legal assistance and carrying out extradition even in the absence of a bilateral (or multilateral) treaty between Liechtenstein and the requesting country.

International cooperation with regard to police investigations is regulated in articles 35, 35a and 35b of the Police Act. The assistance comprises of inter alia the transfer of personal data, including particularly sensitive data such as on prosecutions and sanctions and the possibility for foreign officials to investigate undercover on Liechtenstein territory. Close cross-boarder police cooperation is conducted based on a trilateral treaty with Switzerland and Austria. Furthermore, international cooperation takes place in the framework of Interpol. Liechtenstein is also a State party to the UN Convention against Transnational Organized Crime and all UN terrorism conventions.

**3. Given the potential connection between the sale of children and their recruitment into armed groups, please inform the Committee of the State party's intentions with regard to the ratification of the Optional Protocol on the sale of children, child prostitution and child pornography, which the State party has signed.**

It is the longstanding practice of the Liechtenstein Government to ratify international treaties only when all necessary legal amendments are already taken. With regard to the Optional Protocol on the sale of children, child prostitution and child pornography there were several improvements of the national legislation necessary:

- Specific provisions for intercountry adoptions were embedded into the new Children and Youth Act, which is in force since 1 January 2009. Liechtenstein also acceded to the Hague Convention on the protection of children and co-operation in respect of intercountry adoption of 1993. The Convention entered into force for Liechtenstein on 1 May 2009.
- A revision of the sexual crimes legislation is currently underway. The working group which was tasked with preparing a concrete proposal intends to present its final report to the Government before end of 2009. It is planned to submit the amendment to the Liechtenstein Criminal Code to the Liechtenstein Parliament in 2010.
- Another necessary amendment concerns the (criminal) liability of legal persons. An amendment is currently underway and will probably be submitted to the Parliament in 2010.

With these improvements made or already underway it should be possible to ratify the Optional Protocol within the next two years.

Since March 2008, Liechtenstein has been a State party to the Convention against Transnational Organized Crime (Palermo Convention) and its protocols against the smuggling of migrants and to prevent, suppress and punish trafficking in persons, especially women and children. Other international treaties that are of relevance such as the Council of Europe Convention against sexual abuse and sexual exploitation of children and the Convention against Cybercrime have already been signed. Ratification will be prepared as soon as the legal amendments mentioned above are in force.

Although no cases of human trafficking have been detected so far, Liechtenstein has placed great emphasis on improving its policy and practice with regard to trafficking in the last few years. In 2006 a Round Table on Human Trafficking was established to improve the cooperation among law enforcement authorities, migration authorities and the Victims Assistance Unit. Its aim is to develop a common understanding of the phenomenon and to identify the responsibilities of the different authorities. In 2007 the members of the Round Table prepared a guideline on the handling of cases of trafficking in human beings in Liechtenstein, which has been adopted by the Government. Furthermore, the members of the Round Table have launched a prevention programmes and sensitization campaigns.

Equally with regard to child pornography different measures at national level have already been taken. The Cybercrime Convention of the Council of Europe has been signed in 2008 and ratification is foreseen for 2010, and the necessary legal amendments are underway. The national police have already set up a special unit against cybercrime and participate in the international cooperation against cyber crime. Since 2008 the Liechtenstein national police is part of the G8 24/7 network.