



Convention on the Rights of the Child

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Summary record of the 1484th (Chamber B) meeting

Held at the Palais Wilson, Geneva, on Friday, 22 January 2010, at 10 a.m.

Chairperson: Mr. Zermatten

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The meeting was called to order at 10.05 a.m.

Consideration of reports of States parties (*continued*)

Initial report of Liechtenstein under the Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict (CRC/C/OPAC/LIE/1; CRC/C/OPAC/LIE/Q/1 and Add.1)

1. *At the invitation of the Chairperson, the members of the delegation of Liechtenstein took places at the Committee table.*
2. **Mr. Frick** (Liechtenstein) said that his country, which had abolished its armed forces in 1868, attached the utmost importance to strengthening the protection of children in armed conflict on a global scale. That commitment was reflected in its regular participation in United Nations Security Council debates on children and armed conflict, and its financial support for the former Special Representative of the Secretary-General for Children and Armed Conflict, for the relevant activities of UNDP, and for NGOs, especially Save the Children — with a view to its participation in the 10-year review of the Graça Machel report — and Geneva Call for its work on a deed of commitment for non-State actors with regard to children and armed conflict.
3. Liechtenstein had actively participated in the establishment and development of the International Criminal Court, which played an important role in strengthening the protection of children in armed conflict. As Chair of the Assembly of States Parties to the Rome Statute, Liechtenstein would endeavour to ensure the successful outcome of the first Review Conference of the Rome Statute in Kampala in 2010. Liechtenstein provided regular support for the activities of the United Nations and the International Committee of the Red Cross in the area of demining and child victim assistance, thus contributing to the protection of children during and after armed conflicts.
4. The new Children and Youth Act, which had entered into force in February 2009, took account of the Convention on the Rights of the Child. It had established an independent ombudsman for children, in accordance with the Paris Principles, thus providing children with access to a specialized and independent body mandated to ensure implementation of the Convention and its protocols, and competent to communicate directly with the treaty bodies, including the Committee. Parliament had appointed the first ombudsperson in October 2009.
5. **Ms. Khattab** (Country Rapporteur) welcomed the appointment of the ombudsman for children and hoped that that official would be provided with the necessary resources to be able to do his or her job. She asked whether the State party intended to continue to support the Special Representative of the Secretary-General for Children and Armed Conflict.
6. Noting that the Constitution, which had been amended in 2003, provided for the possibility of conscription in the event of an emergency or a security threat and set an upper age limit (60 years) but no lower limit for that possibility, she asked whether there would be any legal provision to prevent the recruitment of persons under 18 in such situations.
7. She asked how Liechtenstein ensured that the right-wing extremist groups mentioned in its report did not recruit children for training or to involve them in hostile activities and, particularly since such recruitment was not defined as an offence in its domestic legislation, that no individual or group recruited children to join armed groups abroad.
8. She wished to know whether the State party had a mechanism for identifying former child soldiers among asylum-seekers and refugees, and which institution would be responsible for reviewing their situation.

9. Noting that a human rights course formed part of school curricula in Liechtenstein, she asked whether similar awareness-raising was envisaged concerning the Optional Protocol.
10. She requested clarification about the two-year time frame — too long, in her opinion — the State party said it still required in order to ratify the Optional Protocol on the sale of children, child prostitution and child pornography.
11. She asked what was being done to train specialists in child-related issues in Liechtenstein and whether the Office for Social Affairs, which was responsible for coordinating child-related issues, had an appropriate mandate and staff and had the necessary resources to deal with the various legal and procedural problems arising from implementation of the Optional Protocol.
12. She noted with concern that the offences established in article 279 (on armed groups) of the Criminal Code were not covered by article 64 of the Code, which provided for the prosecution of certain criminal offences committed abroad by persons living in Liechtenstein, whether or not the acts in question were also criminalized in the country concerned. That situation might limit the scope of application of the Protocol; recruitment into armed groups should, in her opinion, be included among those offences.
13. Noting that the acts falling under article 279 were punishable by imprisonment for up to 3 years, but that an extraditable criminal offence must be punishable both in Liechtenstein and in the requesting State by imprisonment of more than 1 year, she wondered whether the minimum term of the penalty under article 279 should not be increased to 3 years.
14. **Mr. Filali** asked what measures the State party planned to take to integrate the provisions of the Protocol in its domestic legislation. In its written replies, Liechtenstein stated that it had universal jurisdiction to try cases relating to recruitment of children into the armed forces. However, since the recruitment of children under 18 did not constitute an offence in the State party, it would undoubtedly need to prosecute on the grounds of trafficking in persons, a fact which gave cause for concern.
15. Liechtenstein was a party to the European Convention on Extradition and it would thus be interesting to know whether, in the event that a foreigner living in Liechtenstein who had recruited a foreign child was the subject of an extradition request by his country of origin or the country where the offence had been committed, Liechtenstein would automatically extradite or would first verify whether the conditions required by the international instruments were fulfilled.
16. Since the Weapons Act did not appear to cover the possibility of the use of children in direct conflicts, he wished to know what types of weapons were covered by that Act, whether it had been proposed by the Ministry of Defence and whether Liechtenstein had adopted a legal definition of direct conflict.
17. **Mr. Koompraphant** asked what types of services were available to a child who had fled from an armed conflict and arrived at the Liechtenstein border.
18. **The Chairperson** said that the recruitment of children must be expressly prohibited in domestic legislation because even if recruitment of children could be punished as trafficking or forced labour in the State party, broad interpretation of offences in criminal law was questionable. He drew the delegation's attention to the specific rehabilitation measures and remedies available under the Protocol to unaccompanied minors who had been involved in armed conflicts.

19. **Mr. Pollar** said that he had followed with interest the measures taken by the State party in the framework of international cooperation — to its great credit, given its situation — and asked whether it intended to continue those measures.

20. He asked whether the State party planned to explicitly prohibit the recruitment of children or to continue applying a broad interpretation of its labour legislation. He enquired whether that interpretation allowed recourse to mutual assistance mechanisms, without requiring a minimum sentence to activate such mechanisms.

The meeting was suspended at 10.40 a.m. and resumed at 11.05 a.m.

21. **Mr. Ritter** (Liechtenstein) explained that his country had partly financed the post of Special Representative of the Secretary-General for Children and Armed Conflict at a time when it had not been wholly financed by the United Nations; Liechtenstein had then called for it to be financed from the United Nations ordinary budget. A resolution to that effect had been adopted and obviated the need for further financial support, although it would not preclude Liechtenstein from supporting the work of the current Special Representative. It was, in fact, one of the countries that had endorsed the inclusion of the sexual exploitation of children in times of armed conflict in the list of violations covered by the Security Council's sanctions regime and was also in favour of including in the list the threat of recruitment in an armed conflict.

22. Since article 29 of the Constitution defined the concept of an adult by stating that political rights were acquired at the age of 18, it could be inferred therefrom that political obligations, including that of serving in the defence of the country, only applied to persons aged 18 or over.

23. **Mr. Filali** asked whether or not that provision was derogable in the event of a state of emergency.

24. **Mr. Ritter** (Liechtenstein) said that, in any event, in the highly hypothetical case of a minor being called up to defend the country, the Constitutional Court would be called upon to play its role in interpreting the Constitution and domestic legislation, an integral part of which was the Convention on the Rights of the Child.

25. The neo-Nazis were generally attached to small, more organized, foreign groups. Their activities and their recruitment of young persons to participate in racist activities fell under the provisions prohibiting racism. If they carried weapons, article 279 of the Criminal Code was applicable. The activities of such groups were monitored by the "Violence Commission", an intersectoral body that included representatives of the police, the education authorities and the corps of social workers. The Commission had an intentionally broad mandate, as restricting it solely to racist violence might have been counterproductive; it might prove very difficult to determine whether or not an act had been motivated by racial hatred. Peace education formed an integral part of school curricula.

26. Article 279 of the Criminal Code criminalized the following acts: forming an armed group or a would-be armed group without authorization; providing weapons to an existing group; assuming the role of commander of such a group; recruiting persons into, or encouraging them to join, an armed group; providing them with military training or any other form of preparation for combat; supplying weapons, means of transport or telecommunications equipment to an armed group; or supplying it with financial or other support. The definition was sufficiently broad to cover cases of indoctrination.

27. Article 279 had initially been intended for national application, but should Liechtenstein one day have to prosecute an individual for recruiting minors abroad, it could base itself on article 64 of the Code concerning extraterritorial jurisdiction, irrespective of whether or not the recruitment of minors was a criminal offence in the country concerned.

28. **Ms. Khattab** (Country Rapporteur) asked whether the rule stipulating that an extradition could only be carried out when the person concerned gave his or her consent also applied to the perpetrator of a serious offence.
29. **Mr. Ritter** (Liechtenstein) said that if the perpetrator of a war crime refused to be extradited, the public prosecutor's office could enforce extradition, in which case article 104 of the Criminal Code could be applied. That article established penalties for any person "who recruits, houses, transports, offers or hands over a child to another person with the intention of sexual or labour exploitation" because, like ILO, Liechtenstein regarded the recruitment of children as a form of exploitation through labour.
30. **Mr. Filali** suggested that more precise wording should be introduced to refer specifically to the participation of children in direct hostilities in an armed conflict, as required under the Optional Protocol. He pointed out that article 279 of the Criminal Code made no mention of the age of 18.
31. **The Chairperson** agreed that it was inadvisable to rely on a broad interpretation of the concept of trafficking or exploitation, especially in the case of a country that was not a party to ILO Conventions Nos. 138 and 182.
32. **Mr. Ritter** (Liechtenstein) said that article 279 of the Criminal Code made no specific reference to minors but was not restrictive and applied to any person, including a child, at risk of being recruited into an armed group. Liechtenstein's legislation and jurisprudence were based on the Austrian system and, in practice, before submitting a bill, a lawmaker tended to check first to see if Austria had not already adopted a law on which judges could base their decisions. Liechtenstein would therefore not extradite a person involved in the recruitment of children in hostilities if that person might be in danger of being tortured or sentenced to death in his or her country of origin. Liechtenstein was not a member of ILO.
33. No application for asylum had been received from a child soldier in Liechtenstein but should that occur, the status of the child concerned would be governed by the Refugee Act and the applicable procedure would be that described in paragraphs 70 and 71 of the initial report. Liechtenstein had not organized any activities to raise awareness of issues concerning the involvement of children in armed conflict for public officials in general or officials in contact with asylum-seeking minors in particular. However, the responsibilities of the ombudsman for children included monitoring the implementation of the Optional Protocol to the Convention, and he or she would no doubt conduct information campaigns on the provisions of the Optional Protocol.
34. The Criminal Code and other laws were being amended with a view to 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.
35. **Mr. Filali** asked whether Austrian jurisprudence was really the only source of law and whether, in extradition cases, Liechtenstein took account of a person's previous convictions.
36. **Mr. Ritter** (Liechtenstein) said that Austrian jurisprudence was an important source of law, but judges also referred to European Union jurisprudence. A person's previous convictions might indeed be a factor in extradition cases.
37. Liechtenstein was mainly active at the multilateral level but participated in various bilateral cooperation programmes, particularly in the area of education. That was important in preventing the recruitment of children into the armed forces.
38. **Ms. Khattab** (Country Rapporteur) recommended that the State party should: expedite the adoption of a law specifically prohibiting the recruitment of children; amend

its legislation as soon as possible to facilitate ratification of the second Optional Protocol; endeavour to prevent the participation of minors in the activities of right-wing paramilitary groups; carefully review the situation of minors seeking asylum who might have been child soldiers; and continue to promote a culture of peace.

The meeting rose at noon.