



**Convention on the
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COMMITTEE ON THE RIGHTS OF THE CHILD

CONSIDERATION OF REPORTS SUBMITTED BY STATES PARTIES
UNDER ARTICLE 44 OF THE CONVENTION

Second periodic reports of States parties due in 2001

LUXEMBOURG* **

[14 November 2002]

* For the initial report submitted by the Government of Luxembourg, see document CRC/C/41/Add.2; for its consideration by the Committee, see documents CRC/C/SR.471-473; for the Committee's concluding observations, see document CRC/C/15/Add.92.

** In accordance with the information communicated to the States Parties concerning the processing of their reports, this document has not been reviewed by the publishing services prior to its translation by the Secretariat.

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INTRODUCTION AND GENERAL CONSIDERATIONS

1. The Grand Duchy of Luxembourg signed the Convention on the Rights of the Child on 21 March 1990 and ratified it by Act of 21 December 1993 which (1) approved the Convention on the Rights of the Child adopted by the United Nations General Assembly on 20 November 1989 and (2) amended certain articles of the Civil Code.

2. Pursuant to article 44 of the Convention, Luxembourg submitted its initial report on the rights of the child in the Grand Duchy of Luxembourg to the international Committee on the Rights of the Child in July 1996. The international Committee on the Rights of the Child considered the initial report at the United Nations Office in Geneva in June 1998. In November 1998 the evaluation of the initial report on the rights of the child was published. This contained:

- an additional report concerning the implementation of the Convention (List of issues to be taken up in connection with the consideration of the initial report);
- the concluding observations of the international Committee on the Rights of the Child and the position of the Luxembourg Government;
- the future measures envisaged by the Government.

3. The present report by the Luxembourg Government constitutes the second report on the implementation of the Convention on the Rights of the Child under article 44.1(b) of the Convention. It describes the principal measures adopted by the Grand Duchy of Luxembourg to give effect to the rights recognized in the Convention and the progress made with respect to the enjoyment of those rights.

With a few exceptions, rather than reproduce the basic information provided in the first report the present document simply refers to it and indicates the changes which have taken place since 1998.

The report has been prepared by a drafting group consisting of representatives of various ministries, namely:

- Ministry of the Family, Social Solidarity and Youth,
- Ministry of Foreign Affairs, Foreign Trade, Cooperation and Defence,
- Ministry of Culture, Higher Education and Research,
- Ministry of National Education, Vocational Training and Sport,
- Ministry of Justice,
- Ministry for the Promotion of Women,
- Ministry of Health,
- Ministry of Labour and Employment,

together with:

- members of the ad hoc committee on the rights of the child.

4. Considering Luxembourg's attachment to democratic values and aware of the fact that a joined-up and consistent policy is indispensable in this field, the Government deemed it advisable to set up a "think tank" to promote a dynamic partnership with civil society and, moreover, to propose a programme for education in human rights.

5. Accordingly, on 26 May 2000, the Government adopted a *Government Regulation in Council creating the Consultative Commission on Human Rights*.

This Commission is a governmental consultative body responsible for assisting the Government, by making studies and giving opinions, in all matters of general interest concerning human rights on the territory of the Grand Duchy of Luxembourg.

It gives opinions and conducts studies either on its own initiative or at the Government's request and can propose to the Government measures and action programmes for the protection and promotion of human rights, particularly in the schools and universities and at work.

The Commission also acts as the national correspondent for the European Monitoring Centre for Racism and Xenophobia.

REPLIES TO THE COMMITTEE'S SUGGESTIONS AND RECOMMENDATIONS

1. In the light of the Vienna Declaration and Programme of Action of 1993, the Committee encourages the State party to consider reviewing its reservations with a view to their withdrawal.

6. At this stage, the Government, having reviewed its reservations with respect to the Convention on the Rights of the Child, does not envisage withdrawing them.

2. The Committee recommends that the State party, on a priority basis, take all necessary measures to ensure that its domestic legislation is in full conformity with the provisions and principles of the Convention.

7. Reference should be made to paragraphs 47 to 56 (*Alignment of the legislation and national practice on the provisions and principles of the Convention*) of this report.

3. The Committee encourages the State party to adopt a comprehensive strategy for children. The Committee also wishes to suggest that the State party envisage the establishment of a permanent mechanism of coordination, evaluation, monitoring and follow-up for policies aimed at the protection of the child to ensure that the Convention is fully respected and implemented, at the central and local levels. In this respect and as part of the ongoing efforts of the State party to promote and protect the rights of the child, the Committee encourages the State party in its efforts to establish an independent monitoring body, such as an Ombudsperson.

8. Although the Government has assigned the task of coordinating the promotion of the rights of the child to the Ministry of the Family, it should be noted that many other departments have direct responsibility for numerous activities on behalf of children, for example: the Prime Minister's Office - Ministry of State (communications and the media); Foreign Affairs (cooperation and development aid); Tourism and Housing (family housing and sex tourism); Education; Justice (legal protection); Promotion of Women (equal opportunities); Health; Social Security; Transport; and Labour and Employment.

9. In 1996, an ad hoc committee on the rights of the child was set up under the Ministry of the Family. As part of a multidisciplinary approach, the committee participates, in an advisory capacity, in the coordinating missions relating to the rights of the child which the Government has assigned to the Department of the Family. This body, which consists of ten members from various NGOs and different professions (medicine, psychology, law, social work and special education), meets in principle once a month to examine various problems submitted to the Department of the Family and involving possible infringement of the rights of the child. Between 1999 and 2001, numerous meetings of the committee were devoted to the examination of the opinion of the Council of State of 25 March 1999 on the draft law on the promotion of the rights of the child and the social protection of children as well as to participation in the drafting of the national report on the follow-up to the World Summit for Children.

10. In the light of the above-mentioned opinion of the Council of State, the Government amended the draft law on the promotion of the rights of the child and the social protection of children. The draft as it stands at the time of preparation of this report retains the idea of an "Ombuds" committee¹ whose six members form a multidisciplinary team able to draw upon a wide range of professional and family experience. The chairman is to work for the committee full-time which will guarantee the minimum necessary availability while facilitating identification by the public and by children, in particular.

4. The Committee recommends that the State party continue to disseminate the Convention in appropriate languages to adults and children alike. It also recommends that the authorities continue to ensure awareness raising, education and training programmes about the Convention on the Rights of the Child for professional groups working for and with children, such as: judges, lawyers, law enforcement and army officials, civil servants, including at the local level, personnel working in institutions or other places of detention for children, health personnel and social workers.

11. The measures taken to make the Convention on the Rights of the Child better known were described in paragraphs 141 to 146 of the initial report and in paragraph 6 of the additional report.

It is important to bear in mind that raising the awareness of the general public and children is one of the primary objectives of promotion of the rights of the child.

¹ The Act of 25 July 2002 establishing a Luxembourg committee on the rights of the child, known as the "Ombuds-Comité fir d'Rechter vum Kand" (ORK), was passed by the Chamber of Deputies on 11 June 2002.

The text of the law approving the Convention on the Rights of the Child is in French. German and Luxembourgish translations are not available.

The initial report was presented at a press conference on 5 August 1996 and anyone interested can obtain a free copy from the Department of the Family, together with free copies of the evaluation of the initial report and the additional report.

Some articles of the Convention have been published in a form accessible to children.

12. The following is a nonexhaustive list of measures taken by the Ministry of the Family during the period from 1996 to 2001:

- Posters illustrated by a Luxembourg cartoonist stressing the essential rights of children (intended for primary school pupils);
- Publication of a comic strip called “Décke Gas an der Krommheck”;
- Publication of a book for children aged between 9 and 12;
- Publication of a postcard and a pamphlet in five languages explaining the rights and duties of children;
- The silent march on 21 November 1996 organized in collaboration with the Ministry of Youth and about 80 public and private bodies;
- Organization of various seminars.

13. Three further specific actions by the Department of the Family deserve mentioning:

- A series of articles on the common theme of the family and the rights of the child was published in the periodical “*Gaart en Heem*” of the Luxembourg League of Plot and Hearth. The League’s annual booklet for 1998 was devoted entirely to the question of the rights and duties of children. Altogether, 40,500 copies of the booklet were printed.
- The Ministry of the Family collaborates with and supports the Luxembourg Red Cross in publishing “Young Cross”, a magazine for 13 to 15 year-olds which contains articles on the rights of the child.
- In May 1998, the Ministry of the Family actively participated in the Caritas Fortnight. Sets of 6 postcards, each representing an article of the Convention, were prepared by children aged 6 to 13. Two hundred children submitted designs and all of these were put on display at Caritas headquarters throughout the month of May.

14. The “Jugend-Infobus”, which has been operating since 1997, has also become an important and interesting facility for young people who can use it to access the information they need.

15. The 10th anniversary of the Convention on the Rights of the Child was marked by the organization of a press conference at which the Minister for the Family recalled the history of the Convention, presented the balance-sheet for the last 10 years and outlined the Government's concerns and priorities in connection with the promotion of the rights of the child. At this press conference an information note by the ad hoc committee on the rights of the child concerning the reporting of suspicions of sexual abuse, published by the Ministry, was also brought to the attention of the public. This note, which is intended for professionals in the education and social assistance sectors, contains extracts from the Convention on the Rights of the Child.

16. The publication "Young people, your rights and duties", which dates from 1994, is being reissued in three volumes, the first of which has just appeared in the form of a comic strip on the rights of the child entitled "Ech och". This refers to 21 articles of the Convention and is mainly aimed at children not yet able to read and write. Incidentally, refugee children also find this publication useful.

17. The National Youth Service of the Ministry of the Family, Social Solidarity and Youth, in collaboration with the Mediation Centre, is preparing an information package specifically adapted for these target groups.

18. As part of their training, future members of the Luxembourg legal service attend lectures and courses given by Luxembourg and French judges and law officers teaching at the French National Legal Service Training College. Further training is provided through public and private institutions (e.g. reception centres) and at the German, as well as French, Legal Service Training College.

This training includes courses that deal with subjects relating to the rights of the child.

Likewise, several units of the basic training provided for future police officers are reserved for this particular topic in connection with the protection of the rights of the child.

5. The Committee recommends that the State party fully take into account in its legislation all the grounds for protection from discrimination as spelled out in article 2 of the Convention. In particular, the Committee recommends that the State party take all appropriate measures to ensure that children born out of wedlock do not suffer discriminatory treatment or stigmatization, and that the terms "legitimate" and "illegitimate", which are currently used in the Civil Code, be eliminated. In view of the multinational dimension of the society, the Committee further recommends that the State party take all appropriate measures, including legal ones, to guarantee all the rights set forth by the Convention to all children living within its jurisdiction, in the light of articles 2, 3 and 22.

19. The measures taken by Luxembourg to prevent and combat all forms of discrimination against foreign children, children with disabilities and children born out of wedlock were dealt with in paragraphs 160 to 162 and 753 to 755 of the initial report and in paragraphs 8 and 25 of the additional report.

It should be noted that the Act of 19 July 1997, which supplemented the Criminal Code by modifying the definition of the offence of racism and creating the offence of revisionism

and other conduct based on illegal discrimination, amended article 454 of the Criminal Code as follows:

“Discrimination shall be taken to mean any distinction made between natural persons by reason of their origin, colour, sex, sexual orientation, family situation, state of health, disability, customs, political or philosophical opinions, trade union activities, affiliation or non-affiliation, genuine or supposed, to a specific ethnic group, nation, race or religion...”.

20. As regards children born out of wedlock and, more particularly, the use of the terms “legitimate” and “illegitimate”, reference should be made to the document evaluating the initial report and, more particularly, to the position taken by the Luxembourg Government on the main areas of concern:

“In Title VII the Civil Code distinguishes between lawful descent and natural descent.

The term illegitimate descent does not appear in the Civil Code.

Article 354-1 of the Civil Code expressly provides for the child born out of wedlock to have the same rights and the same duties as the legitimate child. Thus there is no discrimination.”

6. It is the Committee's view that further efforts must be undertaken to ensure that the general principles of the Convention, in particular "non-discrimination" (art. 2), the "best interests of the child" (art. 3) and the "respect for the views of the child" (art. 12), not only guide policy formulation and decision-making, but also are integrated appropriately into any judicial and administrative decisions, as well as in the development and implementation of all projects and programmes which have an impact on children.

21. The Government has instructed the judges, law officers and officials concerned to implement the Committee's recommendation.

22. The Act of 27 July 1997 amending certain provisions of the Civil Code, the Code of Civil Procedure, the Code of Criminal Procedure and the Administration of Justice Act clarified the rules governing the hearing of child witnesses by modifying article 388-1 of the Civil Code and introducing an article 881-15 into the Code of Civil Procedure (see paragraphs 74 ff. of this report).

23. As regards the protection of young persons in the youth courts, minors are party to the proceedings.

7. In order to protect fully the rights of children born anonymously ("under x"), the Committee recommends that the State party take all appropriate measures to ensure that the provisions of article 7, especially the right of the child to know his or her parents, be fully enforced in the light of the principles of "non-discrimination" (art. 2) and the "best interests of the child" (art. 3).

24. As mentioned in the initial report and the additional report, on 19 October 1993 the Chamber of Deputies adopted a motion inviting the Government to obtain the opinion of the National Consultative Committee on Life Sciences and Health Ethics (CNE) on the questions of the anonymity of the parents in cases of anonymous births and of the anonymity of the father in cases of artificial insemination by anonymous donor. The Committee was consulted by the Government in 1996 and its opinion was made public on 8 March 2000 at a press conference attended by the competent Minister, the Minister of Culture.

25. In its opinion, the Committee made the following recommendations:

“Whereas

- the values - which come into conflict in the context of the problems discussed - span the entire legislative horizon and none of them can be neglected,*
- none of these values is absolute,*
- the solution of the problems concerning the right of the child to know its biological parents and the anonymity of the latter in the scenarios discussed presupposes a careful balancing of values and legislative requirements,*

the CNE makes the following recommendations:

The major problems

- The CNE recommends that the institution of anonymous birth be maintained while being moderated by provisions enabling the children to obtain access, at least within certain limits, to information about their biological mother and their origins (emphasis added). In this connection, the CNE recommends a careful review of the median provisions studied. It recalls that a majority of the members of the Committee has ruled in favour of a provision enabling the children to obtain access, on certain conditions, to ‘identifying’ information about their biological mother provided that the latter has given her prior consent.*
- The CNE also recommends that gifts of gametes and embryos, within the context of artificial reproduction, should be anonymous. However, the anonymity of the donors should be moderated by provisions similar to those that the Committee examined in the context of anonymous birth. The CNE recommends that these provisions be carefully examined.*
- The CNE points out that, in the context of adoption, only the anonymous birth scenario, from which many cases of adoption spring, raises serious problems concerning the access of the children to information about their biological parents. If the institution of anonymous birth were moderated by one of the median provisions studied, then, provided there were no purely factual obstacles, all adopted children would be able to obtain access, in principle, to at least certain information about their biological parents. This access would, however, be facilitated by certain provisions concerning access to the data.*

- *A majority of its members having ruled, in the context of anonymous birth and artificial reproduction, in favour of the preservation of 'identifying' data concerning both the woman giving birth (in anonymity) and the donors of gametes and embryos, in particular in the interests of the health of the child, the CNE recommends a careful review of the possibility of preserving these data.*

Addition ethical considerations

- *Whatever the provisions adopted, the CNE recommends that any risk of blackmail with respect to either the biological parents or the legal parents and children be eliminated, that any claim to maintenance or succession on the part of the child and, a fortiori, any establishment of ties of lawful descent with the biological mother or donors of gametes be excluded, that the child not be allowed to bring legal proceedings against its biological mother or donors of gametes or embryos based on facts relating to its conception (artificial reproduction) or birth (anonymous birth).*

Legal recommendations

If, as the CNE suggests, the legislature opts for one of the median solutions envisaged, it should:

- *define the 'identifying' or 'nonidentifying' data to be preserved in cases of anonymous birth or artificial reproduction;*
- *determine which administrative or judicial authorities should be competent to receive and preserve the data;*
- *adopt rules to ensure that these data remain confidential;*
- *determine who shall have access to the data: doctors, minors, children of full age, legal representatives, direct descendants;*
- *draw up procedures for obtaining access to the data;*
- *facilitate, where necessary, the access of a child - born in Luxembourg of known parents and subsequently adopted - to its birth certificate;*
- *examine the problems raised by the adoption of children born abroad and the official confirmation of foreign adoptions in Luxembourg, given the frequent lack of data on the identity of the biological parents;*
- *clarify the provisions relating to the preservation of adoption files or files on the registration for enforcement of foreign rulings on adoption and on access to the data in the files;*
- *review the additions and clarifications to be made to the Civil Code in connection with the adoption of legislation on artificial reproduction, in particular with regard to the question of descent;*
- *establish the principle that the disclosure of the biological truth, whether in the case of anonymous birth, artificial reproduction or adoption, cannot have legal consequences with respect to the relations between the biological parents and the children;*

- *assess the scope of the principle of the nonretrospective effect of the law in relation to the adoption of the new provisions.”*

26. It should be noted that, in any event, the Central Statistical and Economic Research Service (STATEC) recorded only one case of anonymous birth during the period from 1995 to 1999.

8. In the light of article 17 of the Convention, the Committee recommends that the State party take all appropriate legal and other measures to protect children from being exposed to violence and pornography through video movies and other modern technologies, including the Internet. The Committee also recommends that the State party pursue its efforts to adopt legislation effectively prohibiting the possession of pornographic material involving children. Bilateral cooperation with neighbouring countries should be engaged to this effect.

27. The Act of 31 May 1999 strengthening the measures against trafficking in human beings and the sexual exploitation of children introduced amendments to the Criminal Code and the Code of Criminal Procedure. Article 5 added to the Criminal Code an article 384 which expressly makes *child pornography* a criminal offence. Thus, anyone who knowingly holds documents, printed matter, images, photographs, films or other objects of a pornographic nature involving or depicting minors under the age of 18 will be liable to a term of imprisonment and a fine. This article also provides for the mandatory confiscation of such objects in the event of a guilty verdict. Other aims of the Act are significantly to increase the penalties applicable to various forms of sexual exploitation of children, to extend the *extra-territorial prosecution* of sex tourists, and to permit the use of *audio and audiovisual recordings* of the testimony of minors or witnesses during legal proceedings thereby helping to avoid any secondary traumatization of the victim as a result of having to give evidence repeatedly.

Furthermore, on the occasion of the UN Millennium Summit, on 6 September 2000, Luxembourg signed the Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography.

9. In the light of articles 3, 19 and 28.2, the Committee recommends that corporal punishment at home and in care institutions be explicitly prohibited by law.

28. In connection with this paragraph, see paragraph 30 (ASFT Act) and paragraphs 90 to 93 (*Right not to be subjected to torture or other cruel, inhuman or degrading punishment*) of this report.

10. The Committee encourages the State party to take all appropriate measures, including of a legislative nature, to ensure that a child placed in any form of institution is guaranteed all his/her rights set forth by the Convention, in particular the right to periodic review of placement. The Committee also recommends that the State party establish a monitoring mechanism for care and other types of institutions. Particular attention should be paid to monitoring children placed in foreign institutions when specialized expertise or appropriate facilities do not exist in the State party. In this regard, the Committee recommends that a study to assess the impact of placement of children in neighbouring countries be undertaken.

29. Voluntary placements can be reviewed at any time.

With regard to placements ordered by the court, article 37 of the 1992 Protection of Young People Act provides as follows: *“The youth court or judge ... may at any time, either on the initiative of the court or judge or at the request of the Public Prosecutor's Office, the minor, or his parents, guardian or other persons having custody of him, or on the report of a probation officer, revoke or amend the measures taken and act, within the limits of this Act, in the best interests of the child.*

However, when the request is made by the minor or by his parents, guardian or other persons having custody of him, it may not be submitted until one year has elapsed from the date on which the decision ordering the measure became final. If the request is rejected, it may not be resubmitted until one year has elapsed from the date on which the decision to reject became final. In any event, these measures are subject to review every three years if they have not meanwhile ceased to have effect (...).”

30. The Act of 8 September 1998 governing relations between the State and organizations working in the social, family and therapeutic fields, together with its Grand-Ducal regulations, makes it possible to monitor social, family and therapeutic institutions and activities.

This Act, the so-called ASFT Act, provides the State with a number of useful tools for controlling service providers in terms of both the quality of the services and the management of public funds. Under this Act, anyone intending to undertake or perform, other than casually, as a main or secondary occupation and for consideration, one of the following social, socio-educational, medico-social or therapeutic activities:

- the reception and accommodation of more than three persons at a time, by day and/or by night;
- the provision of advisory, help, care, assistance, counselling, social training, community work or vocational guidance services

must hold accreditation issued by the Minister for the Family, the Minister for the Promotion of Women, the Minister for Youth or the Minister for Health, whichever is competent.

To obtain accreditation, applicants must be of good repute, have buildings and premises or other infrastructure that meet both minimum health and safety standards and the needs of the users, have a sufficient number of trained staff, submit a financial statement and provisional budget and guarantee that the accredited activities are available to users regardless of any considerations of an ideological, philosophical or religious nature and that the user is entitled to the protection of his privacy and respect for his religious and philosophical beliefs.

Accreditation is granted for an indefinite period and for the activities listed. However, it will lapse if not used for more than two years and may be withdrawn for failure to comply with the laws and regulations.

The minister who grants the accreditation is responsible for monitoring its use. Infringements of the Act and its implementing regulations may be investigated and established by officials acting in the capacity of a police officer.

Furthermore, the Act authorizes the State to grant, on certain conditions, financial assistance with the performance of the activities in question, as well as with related investment.

On 31 December 2001, the following Grand-Ducal Regulations were adopted in implementation of the said Act:

- Grand-Ducal Regulation of 10 December 1998 on the accreditation of managers of *medico-social and therapeutic services*;
- Grand-Ducal Regulation of 8 December 1999 on the accreditation of managers of *services for the elderly* (repealing the Grand-Ducal Regulation of 11 December 1998);
- Grand-Ducal Regulation of 18 December 1998 implementing articles 1 and 2 of the Act of 8 September 1998 governing relations between the State and organizations working in the social, family and therapeutic fields as regards the governmental accreditation of managers of *services for disabled persons*;
- Grand-Ducal Regulation of 20 December 2001 implementing articles 1 and 2 of the Act of 8 September 1998 governing relations between the State and organizations working in the social, family and therapeutic fields as regards the governmental accreditation of managers of *day care facilities for children, without accommodation* (repealing the Grand-Ducal Regulation of 28 January 1999);
- Grand-Ducal Regulation of 28 January 1999 on the accreditation of managers of *services for young people*;
- Grand-Ducal Regulation of 19 March 1999 on the accreditation of managers of *services for girls, women and women with children*;
- Grand-Ducal Regulation of 16 April 1999 on the accreditation of managers of *reception centres for children and young adults, with accommodation*;
- Grand-Ducal Regulation of 14 January 2000 establishing the conditions and formalities for the accreditation of *family placement assistance services* provided for by the Act of 8 September 1998 governing relations between the State and organizations working in the social, family and therapeutic fields;
- Grand-Ducal Regulation of 9 January 2001 implementing articles 1 and 2 of the Act of 8 September 1998 governing relations between the State and organizations working in the social, family and therapeutic fields as regards the governmental accreditation of managers of *services for adults, alone or with children*;
- Grand-Ducal Regulation of 29 March 2001 establishing the conditions and formalities for the accreditation of the activity of *receiving and accommodating*, by day and/or by night, *more than three and fewer than eight minors* at a time, in the home of the person carrying on the activity, provided for by the Act of 8 September

1998 governing relations between the State and organizations working in the social, family and therapeutic fields.

The Grand-Ducal Regulation on the governmental accreditation of managers of services for young people and that on the accreditation of managers of reception centres, with accommodation, for children and young adults expressly require, in their articles 7.5 and 5, respectively, the manager of services that fall within the scope of these regulations to guarantee treatment that complies with the provisions of the Convention on the Rights of the Child.

31. Young people placed in an establishment abroad are monitored by the Ministry of the Family, Social Solidarity and Youth in collaboration with the specialized services which previously monitored the child in its original environment. Consultation meetings are held at regular intervals to consider the young person's plans.

11. The Committee recommends that the State party ensure that domestic legislation, procedures, policies and practices fully respect the provisions of article 21 of the Convention. It encourages the State party to consider ratifying the Hague Convention of 1993 on Protection of Children and Cooperation in Respect of Intercountry Adoption.

32. The Luxembourg Government has prepared a bill ratifying the Hague Convention of 29 May 1993 on Protection of Children and Cooperation in Respect of Intercountry Adoption.² The indispensable consultations at national level have been begun in connection with this bill which could be submitted to the Chamber of Deputies in the course of 2002. For further details see paragraphs 141 to 145 (*Adoption*) of this report.

12. With regard to the rights of children with disabilities and in the light of, inter alia, the provisions of article 23 of the Convention, the Committee encourages the State party to take all measures to implement fully the 1994 Law on school inclusion.

33. With respect to this paragraph, see paragraph 205 (*School inclusion of children with disabilities*) of this report.

13. The Committee encourages the State party to specifically integrate human rights education, including the rights of the child, in the school curricula.

34. With respect to this paragraph, see paragraphs 224 to 228 (*The rights of the child and human rights*) of this report.

14. The Committee recommends that the State party undertake a comprehensive study to identify reasons for the drop in breast-feeding after the first month. It also recommends the extension of the period of maternity leave, serious efforts to educate the public - especially new parents - on the benefits of breast-feeding and the adoption of

² Act of 14 April 2002:

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

other measures, as necessary, to counteract any negative impact on employment of women who wish to continue breast-feeding their children for a longer period of time. Finally, the Committee recommends that the State party increase its efforts to promote compliance with the International Code for Marketing of Breast Milk Substitutes.

35. The Act of 1 August 2001 on the protection of pregnant workers and workers who have recently given birth or are breastfeeding repealed and replaced the Act of 3 July 1975 on maternity protection for women workers.

The new law has a dual purpose. Firstly, it was necessary to take action pursuant to the reasoned opinion of the European Commission of 6 August 1999 concerning the transposition of Council Directive 92/85/EEC of 19 October 1992 on the introduction of measures to encourage improvements in the safety and health at work of pregnant workers and workers who have recently given birth or are breastfeeding, in which the European Commission had drawn attention to an inconsistency between articles 2 (definition of pregnant woman) and 4 (prohibition of night work), respectively, of the Act of 3 July 1975 and the Directive. Secondly, the new Act takes into account the problems posed by the system of formal prohibitions on exposure to certain agents or working conditions as specified in articles 5 and 6 of the amended Act of 3 July 1975 on maternity protection for women workers. One of the problems revealed by practical experience was that the excessively rigorous application of the old system could lead to a very large number of pregnant women losing their jobs, regardless of the real risk incurred and the wishes of the women concerned.

The new Act maintains the principle of 8 weeks antenatal maternity leave prior to confinement and 8 weeks postnatal maternity leave. Postnatal leave is 12 weeks in cases of premature or multiple birth, as in the case of a mother who breastfeeds her child. Any antenatal leave not taken is added to the postnatal leave if the child is born earlier than expected. If the child is born later than expected, the prohibition on employing the pregnant woman is extended up to confinement, without the period of postnatal leave being reduced.

At her request, during the course of a normal working day the breastfeeding mother must be allowed breastfeeding time divided into two 45-minute periods at the beginning and end of her normal work schedule. If the working day is interrupted only by a one-hour break, the two periods can be combined into a single breastfeeding period of at least 90 minutes. The same provision applies if it is impossible for the woman to breastfeed her child in proximity to the workplace. Breastfeeding time counts as working time and gives entitlement to the normal wage.

Pregnant and breastfeeding women cannot be required to work overtime. Similarly, the breastfeeding woman - up to the child's first birthday - cannot be required to work between 10 p.m. and 6 a.m., when the competent works medical officer considers this might be prejudicial to her safety or health.

The Act also provides for special protective measures for pregnant or breastfeeding women insofar as they may in no circumstances be required to perform activities involving a risk of exposure to certain agents (physical, biological or chemical) or to certain working conditions.

Finally, the Act maintains the principle that a pregnant female employee may not be dismissed. Thus, the employer may not notify a female employee of the termination of the employment relationship nor, where appropriate, summon her to a preliminary interview when she is medically certified as pregnant or for a period of 12 weeks following the birth of the child. If termination is notified before the pregnancy is medically confirmed, the female employee may, within eight days of receiving notice, provide evidence of her condition by submitting a certificate by registered post. Any dismissal notified in breach of the prohibition on dismissal and, where appropriate, the summons to a preliminary interview will be null and void.

36. As regards the incomplete implementation of the International Code for Marketing of Breast Milk Substitutes, reference should be made to the additional report. Luxembourg has applied part of the Code under the amended Grand-Ducal Regulation of 20 November 1993 on infant formulae and follow-on formulae, based on amended European Directives 91/321/EEC of 14 May 1991 and 92/52/EEC of 18 June 1992.

Since the implementation of this Regulation, all advertising for and distribution of samples of infant formulae and giveaways to young mothers has ceased.

37. The Act of 12 February 1999 on the implementation of the national plan of action for the promotion of employment 1998 introduced parental and family leave to Luxembourg, the main aims being the improved reconciliation of private life with working life and the promotion of equality of opportunity.

15. The Committee encourages the State party to undertake studies on the causes of suicide and other mental health problems among young people and to adopt measures to combat this phenomenon. It further recommends that the State party undertake "youth-friendly" preventive, curative and rehabilitative measures to address the increasing problem of drug and substance abuse among young adolescents.

38. The results of two studies, namely, a study of juvenile mortality in Luxembourg (see paragraph 174) and a study of young people's well-being (see paragraph 175), are about to be published.

16. The Committee recommends the reinforcement of the State party's legislation, policies and programmes to prevent and combat all forms of sexual exploitation and abuse, including child prostitution, child pornography and trafficking in children. In this regard, the Committee recommends that the State party establish a comprehensive national plan of action and implement the recommendations of the 1996 Stockholm Congress against Commercial Sexual Exploitation of Children.

39. Special child protection measures and, in particular, the protection of the child against abuse and sexual exploitation have always received the close attention of the Luxembourg Government.

Thus, the Act of 31 May 1999 strengthening the measures against trafficking in human beings and the sexual exploitation of children and amending the Criminal Code and the Code of Criminal Procedure reinforced and supplemented the existing legislation.

On 6 September 2000, the Government signed the Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography.

40. The various initiatives that form part of the National Programme of Action against the Sexual Exploitation of Children, produced by the Minister for the Family, Social Solidarity and Youth after the 1996 Stockholm World Congress, include raising the awareness of the general public, educating children and young people, and training of trainers.

The broad outlines of the National Programme were described in paragraph 30 of the additional report. In 1997, a first training cycle was organized for professionals confronted with child victims of sexual abuse. These study days on “Incest and sexual abuse” comprised various seminars and public conferences attended by persons from various professional backgrounds such as teaching, police work, the magistracy, medicine, and the socio-educational sector. In 1999, several series of training seminars on psychotraumatological techniques were organized to enable professionals to hone their skills in the treatment of victims of sexual exploitation. At the request of the participants, these seminars and lectures were continued in 2000 and 2001. In 2001, the International Day of the Rights of the Child was devoted to this issue, in cooperation with ECPAT Luxembourg. The Minister for the Family, Social Solidarity and Youth organized an awareness day in which pupils from several high schools participated.

41. Within the context of the Action Programme, the ad hoc committee on the rights of the child prepared an information note on “Reporting suspicions of the sexual abuse of a minor for educators and social workers”. This was published in 1999 and reissued in 2000 by the Ministry of the Family, Social Solidarity and Youth. The note, prepared in consultation with the prosecution service of the Luxembourg district court and experts from various ministerial departments, is aimed at assisting teachers, educators, health professionals and social workers who, suspecting sexual abuse, seek guidance on how to proceed and clarification as regards the legislative situation.

42. Priority has also been given to aiding the victims. Thus, a specialized multidisciplinary intervention unit, consisting of experts from various associations and institutions and known as “INFO VIOL - SEXUAL ABUSE”, has been in place since 1 December 1999.

Reference should also be made to paragraphs 266 to 270 (*Sexual exploitation and sexual abuse*) and 271 (*Sale, trafficking and abduction of children*) of this report.

17. With regard to the administration of juvenile justice, the Committee recommends that the State party take all measures to fully integrate the provisions of the Convention, in particular articles 37, 40 and 39, as well as other relevant international standards in this area, such as the Beijing Rules, the Riyadh Guidelines and the United Nations Rules for the Protection of Juveniles Deprived of their Liberty in its legislation, policies and practices. Special attention should be given to alternatives to detention, to preventing suicide in detention, to providing appropriate infrastructures to detained children in order to fully ensure their separation from adults and to guarantee that they have regular contacts with their family. The right of detained children to education, including vocational training, should be fully taken into account. The Committee strongly recommends that the State party take all appropriate measures to implement all

appropriate recommendations adopted by the interministerial working group to improve drastically the conditions of detention of children.

43. In paragraph 29 of the additional report it is stated that “*The ad hoc Critical Analysis Commission on 11 February 1998 drew up the construction programme concerning the security unit to be created within the State Socio-Educational Centre in Dreiborn. This programme provides for two buildings, one being reserved for training and leisure activities and the other for reception, administration and two “family” units.*

It should be noted that the construction programme appears in the multi-annual budget of the Ministry of Public Works.”

At the time of preparation of this report, Luxembourg does not have a secure reception unit for young people whose behaviour poses a threat to themselves or to those around them. Although the State Socio-Educational Centres take in the majority of young delinquents, they are not equipped forcibly to detain minors who refuse to accept the orders of the competent courts. Accordingly, Luxembourg’s only prison continues to receive such minors. In its declaration of August 1999, the present Government gave a formal undertaking to create a secure unit for minors within the framework of the State Socio-Educational Centres. By rapidly completing this project the Government intends to ensure compliance with the recommendations of the Council of Europe’s Committee for the Prevention of Torture.

44. In Luxembourg prison, the educational supervision, psychological and moral counselling, teaching, physical education and medical care of minors are provided by trained personnel.

For further details, see paragraphs 253 to 256 (*Confinement in a correctional institution and orders of temporary custody in a prison*) of this report.

18. Finally, in the light of article 44, paragraph 6, of the Convention, the Committee recommends that the initial report and written replies submitted by the State party be made widely available to the public, along with the summary records of the relevant meetings and concluding observations adopted by the Committee. Such wide distribution should generate debate and awareness of the Convention and the state of its implementation, particularly within the Government, the relevant ministries, the Parliament and non-governmental organizations.

45. Reference should first be made to paragraphs 11 to 18 of this report.

In particular, the last ten years have been characterized by the promotion of the rights of the child in various fields. This intention was expressly incorporated in the Government declaration of 22 July 1994 in which the Government undertook to promote the rights of the child.

In 1996, an ad hoc committee on the rights of the child was set up within the Ministry of the Family. As part of a multi-disciplinary consultative approach, this committee is participating in the coordinating missions pertaining to the rights of the child which the Government has assigned to the Ministry of the Family.

In general, the implementation of the Convention on the Rights of the Child has led to a change in attitude and to increased interest in and the attachment of greater importance to the rights of the child. In signing and ratifying the Convention, Luxembourg has undertaken to adopt all the legislative, administrative and other measures necessary to ensure respect for the rights set forth in this basic text. In recent years, in a very propitious economic and social context, Luxembourg has been able to create a generally favourable environment for the child and its family.

I. GENERAL MEASURES OF IMPLEMENTATION **(arts. 4, 42 and 44, para. 6)**

46. General measures of implementation were dealt with in paragraphs 125 to 146 of the initial report and in chapter “A. *General measures of implementation, paragraphs 1 to 6*” of the additional report.

A. Alignment of the legislation and national practice on the principles and provisions of the Convention

47. First of all, it should be recalled that at the time of ratification of the Convention on the Rights of the Child, certain articles of the Civil Code were amended to align the national legislation on the provisions of the Convention (see paragraph 115 of the initial report).

48. Moreover, in the context of ratification of the Convention, the Chamber of Deputies adopted four motions concerning the establishment of a post of ombudsman for children, parental authority, pornography involving children, and anonymous births (see paragraphs 52 to 56 of this report).

49. The Act of 27 July 1997 amending certain provisions of the Civil Code, the Code of Civil Procedure, the Code of Criminal Procedure and the Administration of Justice Act introduced a series of measures concerning, in particular, the improvement of the arrangements for hearing child witnesses..

50. On the occasion of the UN Millennium Summit on 6 September 2000, Luxembourg signed the optional protocols to the Convention on the Rights of the Child on the involvement of children in armed conflicts and on the sale of children, child prostitution and child pornography. The two protocols have still to be ratified by the legislature.

51. As regards the direct application of the Convention, paragraphs 123 and 124 of the initial report still apply. Thus, the Council of State considers that it is for the courts alone to decide whether or not an international convention is sufficiently precise to be applicable. As indicated in the initial report, in judgement 4/94 of the Criminal Division, the Court of Appeal of the Grand Duchy of Luxembourg acknowledged that the “*1989 Convention is directly applicable with regard to the penalties to be imposed on minors for breaches of criminal law, in view of the principle that the international rule is self-sufficient if its operative part itself enunciates a rule of conduct binding on those addressed therein; such is the case if it is sufficiently clear and precise to justify its domestic application without further intervention by the national authorities, as, for example, in the case of application of article 37 of the Convention to young offenders*”.

In two judgments dated 12 October 1997 and 10 March 1998, the Administrative Court upheld two decisions of the administrative tribunal of 21 April 1997 and 26 November 1997 which, in connection with article 9 of the Convention prohibiting the separation of children from their parents against their will, maintained that *“However, this principle is not absolute. Thus, article 9.1 authorizes separation when the competent authorities determine it to be necessary for the best interests of the child, while article 9.4 recognizes separation resulting from any action initiated by a State Party, such as detention, imprisonment, exile, deportation or death of one or both parents or of the child itself. Accordingly, an expulsion measure legally adopted by a State Party cannot constitute a separation prohibited under article 9 of the Convention”*.

52. Paragraphs 125 to 140 of the initial report and Chapter A, paragraph 3 of the additional report on general measures of implementation deal with the four motions adopted by the Chamber of Deputies further to the ratification of the Convention on the Rights of the Child concerning:

- the establishment of a post of ombudsman for children,
- parental authority,
- pornography involving children,
- anonymous births.

At the time of preparation of this report, the situation was as follows:

53. Pursuant to the opinion of the Council of State of 25 March 1999, draft Law No. 4137³ on the promotion of the rights of the child and the social protection of children was amended by the Government. The new text, which takes the comments of the Council of State broadly into account, was the subject of a supplementary opinion on 9 October 2001. Thus, the chapter on the social protection of children was deleted. As far as possible, the text includes the formulas employed by the Council of State in its 1999 opinion. Considering, however, that the model of a committee is the approach best adapted to Luxembourg’s situation, the draft retained the model of a 6-member committee to be known as the “Ombuds-Comité fir d’Rechter vum Kand” (ORK) with the “Ombudsperson fir d’Rechter vum Kand” as its chairman. He has the right to hear any child who so desires, but it is not his responsibility to deal personally with the cases of those who turn to him.

According to article 2 of the draft law, *“The mission of the ORK is to ensure the protection and promotion of the rights and interests of children, that is, persons under the age of eighteen”*.

Article 3 stipulates that *“In carrying out its mission, the ORK may, in particular:*

³ The Act of 25 July 2002 establishing a Luxembourg committee on the rights of the child or “Ombuds-Comité” (ORK) was passed by the Chamber of Deputies on 11 June 2002. Articles 2 and 3 of the draft have been retained in the legal text.

- *examine the systems established for protecting and promoting the rights of the child, so as to recommend, where appropriate, the necessary adaptations to the competent authorities;*
- *give its opinion on laws and regulations and on bills concerning the rights of the child;*
- *investigate the situation of children and ensure the implementation of the Convention on the Rights of the Child;*
- *submit to the Government and the Chamber of Deputies an annual report on the situation regarding the rights of the child and on its own activities;*
- *promote the development of freedom of expression for children and their active participation in matters that concern them;*
- *examine situations in which the rights of the child are not respected and make remedial recommendations;*
- *receive information and complaints concerning infringements of the rights of the child and hear, in accordance with procedures which it shall determine, any child which so requests;*
- *issue, on the basis of information or complaints or in connection with particular cases which it has investigated, recommendations or advice designed to ensure better protection for the rights and interests of the child”.*

Once passed, the law should be implemented as quickly as possible.

54. The motion relating to the adaptation of the criminal law concerning public decency offences with a view to prohibiting possession of pornographic material depicting children led to the new Act of 31 May 1999 strengthening the measures against trafficking in human beings and the sexual exploitation of children. This Act introduced amendments to the Criminal Code and the Code of Criminal Procedure. Among other things, it also significantly increased the penalties applicable to the various forms of sexual exploitation of children, extended the extra-territorial prosecution of sex tourists and permitted the use of audio and audio-visual recordings of the testimony of minors and witnesses in judicial proceedings, thereby helping to avoid secondary traumatization of the victim due to having to give evidence repeatedly. The Act provides for different penalties depending on whether the victim is a minor or of age. The penalties are more severe if the victim is under 14 or under 11, respectively. Article 5 adds to the Criminal Code an article 384 expressly making child pornography a criminal offence. Thus, anyone who knowingly holds documents, printed matter, images, photographs, films or other objects of a pornographic nature involving or depicting minors under the age of 18 will be liable to a term of imprisonment and a fine. This article also provides for the mandatory confiscation of such items in the event of a guilty verdict.

55. Regarding the motion inviting the Government to submit to the National Consultative Committee on Life Sciences and Health Ethics, for an opinion, the question of the anonymity of the parents in cases of anonymous births and that of the anonymity of the father in cases of artificial insemination by anonymous donor, reference should be made to paragraphs 24 and 25 of this report.

56. With respect to the motion relating to parental authority in cases of judicial placement of a minor, the present Government has undertaken to revise the amended Protection of Young People Act of 10 August 1992. A special “Young People in Distress” committee has been set up within the Chamber of Deputies. An interministerial working group has just been established by the ministers with responsibility for Justice and the Family. The group will begin by making an in-depth examination of the problems of young people in distress.

B. Measures taken to make the Convention widely known (art. 42)

57. The measures taken to make the Convention on the Rights of the Child widely known are listed in paragraphs 141 to 146 of the initial report and in paragraph 6 of the additional report, as well as in paragraphs 11 to 18 of this report.

II. DEFINITION OF THE CHILD (art. 1)

58. The definition of the child has not changed since the initial report.

59. Definition

In principle, the age of majority is set at 18 years. The Luxembourg Civil Code defines a minor as “an individual of either sex who has not yet attained 18 years of age” (art. 388 of the Civil Code, Act of 6 February 1975).

Draft Law No. 4137 on the promotion of the rights of the child incorporates this definition since it is expressly aimed at persons under 18.

On 1 January 2000, out of a total population of 435,700 persons, 96,623 or 22% were children (source: STATEC).

60. Statutory minimum age for certain purposes

The statutory minimum age for certain purposes was dealt with in paragraphs 149 to 158 of the initial report.

Paragraph 150 of the initial report (child labour) needs to be reviewed inasmuch as the Protection of Children and Young Workers Act of 28 October 1969 has been repealed and replaced by the Protection of Young Workers Act of 23 March 2001. For further details see paragraph 263 (*Economic exploitation, in particular child labour*) of this report.

With regard to voluntary enlistment in the armed forces (paragraph 155 of the initial report), it should be noted that on the occasion of the UN Millennium Summit, on 6 September 2000, Luxembourg signed the Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflicts.

III. GENERAL PRINCIPLES

A. Non-discrimination (art. 2)

61. The measures taken by Luxembourg to prevent and combat all forms of discrimination and, more particularly, discrimination against foreign children, children with disabilities and children born out of wedlock are described in paragraphs 159 to 162 (discrimination regarding affiliation, parental authority and rights of succession) and 753 to 755 (measures against racism) of the initial report.

62. As far as combating racism is concerned, the Act of 19 July 1997 supplemented the Criminal Code by modifying the definition of the offence of racism and creating the offence of revisionism and other conduct based on illegal discrimination.

63. The Act of 8 September 1998 governing relations between the State and organizations working in the social, family and therapeutic fields (see paragraph 30) is another useful tool for preventing discrimination. Thus, anyone engaged in one of the activities listed in the Act must guarantee that that activity is accessible to users, regardless of any considerations of an ideological, philosophical or religious nature. The user of such a service also has the right to protection of his privacy and respect for his religious and philosophical convictions.

Grand-Ducal Regulation of 28 January 1999 on the governmental accreditation of managers of services for young people expressly requires the service to respect and defend the principles set out in the Universal Declaration of Human Rights and in the UN Convention on the Rights of the Child.

Grand-Ducal Regulation of 16 April 1999 on the accreditation of managers of reception centres for children and young adults, with accommodation, requires the reception centres to guarantee users treatment and infrastructure that take into account their physical, mental and social well-being and respect the provisions of the Convention on the Rights of the Child.

64. In the field of labour law, the Act of 28 June 2001 on the burden of proof in cases of discrimination based on sex has made the laws and regulations on equal treatment for men and women more effective. To this end, the Act clearly defines the notion of indirect discrimination, already incorporated into the Luxembourg legislation by the amended Act of 8 December 1981, and takes into account the relevant case-law. Moreover, it transfers the evidential burden. Thus, in the event of a dispute it is for the defendant to prove that there has been no violation of the principle of equal treatment.

65. It should be noted that Luxembourg signed the Council of Europe's Protocol No. 12 to the Convention for the Protection of Human Rights and Fundamental Freedoms at Rome on 4 November 2000.

B. Best interests of the child (art. 3)

66. The principle of "*the best interests of the child*" was dealt with in paragraphs 163 to 169 of the initial report and in paragraph 9 of the additional report.

67. The notion of the best interests of the child is not yet established as such in the Luxembourg legislation. The draft law on the promotion of the rights of the child and the social protection of children uses the term for the first time in a piece of national legislation.

68. The Civil Code refers to the “*interests of the child*” but this difference in terminology is of no legal significance. The protection of the child’s interests is given special consideration in the procedures relating to the delegation and forfeiture of parental authority, in the context of the 1992 Protection of Young People Act, in the law of affiliation, in cases of adoption (advantage for the adopted child and good reason), in divorce, in particular as regards the exercise of the right of custody, and where a minor is placed in a foster home.

69. The notion of “*the best interests of the child*” is also taken into account in policy discussions. The explanatory introductions to various laws make reference to this principle without the term being enshrined in the legislation.

70. Nevertheless, more needs to be done to raise awareness; thus, the culture of respect for the views of the child needs more intensive promotion, as this principle is still not sufficiently deeply rooted in the minds of the public.

C. Right to life, survival and development (art. 6)

71. In the Act approving the Convention, the Luxembourg Government declared that article 6 of the Convention presents no obstacle to implementation of the provisions of Luxembourg legislation concerning sex information, the prevention of back-street abortion and the regulation of pregnancy termination (see paragraphs 382 to 384 of the initial report).

72. Chapters VI, VII and VIII offer a series of illustrative examples of the efforts made to encourage the development of the child. The draft Law on the promotion of the rights of the child (see paragraph 53) is an important text in this respect since it expressly provides for the Ombuds-Comité to be responsible for promoting the development of freedom of expression for children and their active participation in matters which concern them.

73. Although not aimed solely at children, it is important to mention the Voluntary Service Act of 28 January 1999, the purpose of which is to encourage the participation of young people in voluntary activities within the context of non-profit nongovernmental organizations specially approved by the minister responsible for youth. One objective of this Act is to promote the active engagement of young people in society by enabling them to carry out activities of general public interest that could provide them with an educational experience.

To be accepted as a volunteer, the applicant must be between 16 and 25 and must have lived in Luxembourg for at least two years. The period of voluntary service ranges from 6 to 12 months and the service is continuous and full-time. It cannot be used as a substitute for regular paid employment. The young volunteer signs an agreement with an approved organization. The agreement determines the rights and duties of each party, the terms and period of engagement, the training the volunteer will receive, liability and the conditions of termination of the agreement. At the end of his service the volunteer is awarded a certificate.

The State gives the volunteers a monthly allowance equal to one fifth of the minimum social wage and pays their social security contributions. Family allowances continue to be paid

during voluntary service, as well as unemployment benefits. Moreover, the volunteer receives concessions in connection with the use of public transport and access to cultural and sporting events.

Young people who participate in voluntary projects or programmes abroad are also eligible for the benefits of this Act. Similarly, the Act makes provision for young foreigners wishing to do voluntary service in Luxembourg, so long as they participate in a project recognized by the minister responsible for youth. In this case, the host organization must, where appropriate, provide sickness, disability and accident insurance and take responsibility for the volunteer. The entry and right of temporary residence of the young volunteer are governed by the relevant laws and regulations.

D. Respect for the views of the child (art. 12)

74. The principle of respect for the views of the child was dealt with in paragraphs 170-172 of the initial report.

75. Thus, when the Convention on the Rights of the Child was approved by the Act of 20 December 1993, certain articles of the Civil Code were amended and an article 388-1 on court hearings involving children was introduced (see paragraph 115 of the initial report).

76. The Act of 27 July 1997 amending certain provisions of the Civil Code, the Code of Civil Procedure, the Code of Criminal Procedure and the Administration of Justice Act clarified the rules governing the hearing of child witnesses and made it possible to take the feelings of minor children into account in divorce proceedings. The judge may decide at his discretion whether or not to hear the child and assesses the advisability of using the feelings expressed, always in the interests of the child (art. 267 of the Civil Code).

77. For clarification purposes, the aforementioned Act also amended article 388-1 of the Civil Code.

“Art. 388-1. (1) In any proceedings concerning him, a minor capable of understanding may, without prejudice to the provision made for his intervention or consent, be heard by the judge or the person appointed for that purpose. (2) When the minor so requests, his court hearing may not be excluded except by means of a specially reasoned decision. (3) The minor may be heard alone, with his attorney or with a person of his choice. If the choice made by the minor seems inconsistent with his interests, the judge may appoint another person. (4) The hearing of the minor shall take place in the judge’s chambers. (5) The minor’s court hearing shall not classify him as a party to the proceedings.”

78. The Act of 27 July 1997 also introduced a new title on court hearings involving children into the new Code of Civil Procedure.

Thus, article 1046 of the new Code of Civil Procedure on the procedure for court hearings involving children reads as follows:

“(1) When the minor requests to be heard under article 388-1 of the Civil Code, the following provisions shall apply:

(2) The request shall be made informally to the judge by the person concerned. It may be made at any stage of the proceedings and even for the first time at appeal.

(3) There shall be no appeal against the decision on the request for a court hearing formulated by the minor. The decision ordering the court hearing may, however, be amended or revoked by another specially reasoned decision when the judge is aware of a serious reason why the minor should not be heard under the conditions initially envisaged.

(4) The decision ordering the court hearing may take the form of a simple registrar's note.

(5) A summons to the hearing shall be sent to the minor through the registry by registered letter with acknowledgement of receipt.

The summons shall inform him of his right to be heard alone, with his attorney or a person of his choice. The same day, the registrar shall notify the representatives of the parties by ordinary mail and, failing that, the parties themselves by registered letter with acknowledgement of receipt of the decision ordering the court hearing. The notice shall reproduce the provisions of paragraph (3).

(6) When the judge receives the request for a court hearing in the presence of all the parties and the minor, the hearing may take place at once. If it is not proceeded with immediately, the summons to the minor and the notification specified in the third sentence of paragraph (5) shall be delivered verbally.

(7) When the minor appears alone for the court hearing, the judge shall inform him of his right to be heard with his attorney or another person of his choice. If the minor exercises this right, the hearing shall be postponed to a later date. The attorney chosen by the minor must so inform the judge. If the minor requests to be accompanied by an attorney and he does not choose one himself, the judge shall request the chairman of the bar to appoint an attorney.

(8) The decision refusing a court hearing shall be forwarded by the registrar to the minor, by registered letter with acknowledgement of receipt. Where appropriate, a copy of the decision shall be forwarded to the minor's attorney.

(9) A court sitting as a bench may hear the minor itself or appoint one of its members to hear the minor and report. ”

79. As far as education is concerned, it is worth recalling the role of the Education Councils under the Grand-Ducal Regulation of 23 May 1991 which allows the pupils and their parents to play a limited part in the running of high schools and technical high schools.

The active members include representatives of the following groups:

- teaching staff - 4 representatives,

- parents - 2 representatives,
- pupils - 2 representatives.

Without prejudice to the responsibilities of the headmaster, the teachers' conference, the class councils and form masters, the education council has the following attributions:

- (1) it participates in the modification and adaptation of the regulations on discipline and internal order determined by the Minister for National Education;
- (2) it stimulates and organizes the school's cultural, social and sports activities;
- (3) it submits to the Minister for National Education an annual report on the general situation of the school;
- (4) it gives opinions on the annual budget proposals;
- (5) it may give its opinion on the introduction or abolition of optional and remedial courses, on the internal organization of the high school and any other questions submitted to it by the headmaster or the Minister for National Education;
- (6) it may make proposals on any issues concerning the life and organization of the school;
- (7) it elaborates the establishment proposal mentioned in article 41 of the Act of 4 September 1990 reforming technical secondary education and continued vocational training.

IV. CIVIL RIGHTS AND FREEDOMS (arts. 7, 8, 13 to 17, and 37(a))

A. Name and nationality (art. 7)

80. Name and nationality were dealt with in paragraphs 173 to 183 of the initial report.

B. Preservation of identity (art. 8)

81. Paragraphs 179 to 183 of the initial report still apply.

C. Freedom of expression (art. 13)

82. Freedom of expression was dealt with in paragraphs 184 and 185 of the initial report. Further details are given in Chapter VII of this report.

D. Freedom of thought, conscience and religion (art. 14)

83. According to article 19 of the Constitution, "*Freedom of religion and of public worship as well as freedom to express one's religious opinions are guaranteed, subject to the repression of offences committed in the exercise of such freedoms*". For further details see paragraphs 192 and 193 of the initial report.

84. Those requesting an activity falling within the scope of the Act of 8 September 1998 governing relations between the State and organizations working in the social, family and therapeutic fields (see paragraph 30) must guarantee that the accredited activities are available to users regardless of any considerations of an ideological, philosophical or religious nature and that the user is entitled to the protection of his privacy and respect for his religious and philosophical beliefs (art. 2(e)). Thus, personal beliefs should not constitute an obstacle to the user's access to such services.

E. Freedom of association and peaceful assembly (art. 15)

85. The right of association is recognized by articles 24 and 25 of the Constitution.

F. Protection of privacy (art. 16)

86. As indicated in paragraphs 195 to 198 of the initial report, the main relevant legal provisions are article 12 of the Constitution guaranteeing individual freedom, the Protection of Privacy Act of 11 August 1982, the Protection of Young People Act of 10 August 1992, and the Act of 2 October 1992 amending the Act of 31 March 1979 regulating the use of personal data in computer systems.

87. It should be noted that draft Law No. 4735,⁴ once passed, will repeal the Act of 31 May 1979 regulating the use of personal data in computer systems.

88. Finally, article 458 of the Criminal Code establishes the principle of professional secrecy which is binding upon doctors, surgeons, health officers, pharmacists, midwives and all other persons who, by trade or profession, hold positions of trust. Special laws such as, in particular, the Act of 26 March 1992 on the exercise and upgrading of certain health professions make express reference to article 458 of the Criminal Code.

G. Access to appropriate information (art. 17)

89. Children's access to appropriate information was described in paragraphs 186 to 191 of the initial report. Chapter VII of the present report deals with the facilities and resources available to children in this respect.

H. The right not to be subjected to torture or other cruel, inhuman or degrading treatment or punishment (art. 37 (a))

90. This right was dealt with in paragraphs 199 and 200 of the initial report.

91. In the Act of 24 April 2000, Luxembourg, in accordance with the recommendations of the United Nations Committee Against Torture, introduced into its Criminal Code specific provisions criminalizing acts of torture within the meaning of the United Nations Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment.

⁴ Act of 17 July 2002 on the protection of persons with respect to personal data processing.

These provisions cover not only traditional physical torture but also mental torture which is more subtle and seems to correspond more closely to modern times.

92. According to article 14 of the Luxembourg Constitution, “*No penalty may be fixed or applied except in pursuance of the law*”. Cruel, inhuman and degrading treatment and punishment other than torture are repressed in the Luxembourg Criminal Code:

- by the provisions on offences involving abuse of authority (article 257 of the Criminal Code) and on offences involving assault and battery (articles 398 to 401 bis of the Criminal Code);
- as aggravating circumstances in connection with indictable offences against persons or property (e.g. inducement into prostitution - article 379 bis of the Criminal Code; extortion or theft with violence or menaces - article 473 of the Criminal Code);
- by the provisions relating to sexual abuse;
- by certain special laws.

93. For the changes that have been made with respect to confinement in State Socio-Educational Centres, see paragraphs 251 and 252 of this report.

V. FAMILY ENVIRONMENT AND ALTERNATIVE CARE **(arts. 5, 18 paras. 1 and 2, 9 to 11, 19 to 21, 25, 27, para. 4, and 39)**

94. Parental guidance, rights and duties of parents, joint responsibility of parents and guardianship of minors were dealt with in paragraphs 216 (Definition and basis of parental authority), 217 (Purpose of parental authority), 218 (The reality) and 219 to 233 (Guardianship of minors) of the initial report.

A. Parental guidance (art. 5)

95. Article 203 of the Civil Code on the joint exercise of parental authority provides that “*The spouses contract jointly, by the sole fact of their marriage, the obligation to feed, maintain and bring up their children*”. Thus, the parents are the natural educators of the children and remain obliged to provide them, even beyond the age of majority, with the means to pursue studies designed to prepare them for the profession they intend to follow, provided, however, that they show themselves fit to pursue them.

The care services are regarded as being complementary to the family environment.

96. As indicated in paragraph 15 of the additional report, the Ministry of the Family’s services are having to deal with an increasing number of requests for the placement of children and adolescents. For various reasons, more and more families seem to be overwhelmed by the task of bringing up their children. These reasons include:

- breakup of the family as a result, in particular, of divorce or separation;

- various forms of poverty (overindebtedness, housing problems, unemployment);
- confusion of the parents with respect to pedagogical concepts;
- new pedagogical challenges: media, drugs, violence, etc.;
- the psycho-social problems facing parents: alcoholism, drug addiction, mental illness, etc.

97. There are numerous observers who consider that in many cases placement, a drastic solution which involves considerable investment and whose effectiveness is disputed, should be replaced by socio-educational assistance formulas. Such action would be preventive in the sense that it would enable “unproductive” placements, which the parents and children concerned almost always find a very painful experience, to be avoided. It would also help to shorten placements inasmuch as the authorities concerned could envisage the earlier reintegration of the child or young person into the family.

98. An example is the “*Families First*” project launched in 1999 by several NGOs, including the Luxembourg Red Cross, with the assistance of the Ministry of the Family, Social Solidarity and Youth. This project is in no way intended to replace but rather to supplement the numerous other initiatives taken, in particular, by homes and care centres. It is primarily intended to provide “follow-up” and does not address the question of prevention.

99. It should be noted that the Ministries of the Family, Youth, Justice and National Education have already taken various initiatives in the field of mediation. Thus, in 1998, a “Mediation Centre”, which mainly serves young people under the age of 26, was set up with the backing of the Ministry of the Family, Social Solidarity and Youth and the National Youth Service. The mediation offered by the Centre is an optional procedure requiring the free and express agreement of the persons concerned to engage in the activity (mediation) with the aid of a specially trained independent and neutral third party (the mediator). Mediation should help the individuals concerned to work out the elements of an understanding that will permit the amicable settlement of their existing differences and, as far as possible, govern their future relations. Mediation ends in a written protocol of understanding signed by the parties and countersigned by the mediator.

Similar initiatives have been developed by several NGOs such as Pro-Familia Dudelange and Familjen-Center CPF Luxembourg. At the beginning of January 2002, the ministers for the Family and Higher Education, the president of the University Centre of Luxembourg and the president of the University Institute Kurt Bösch (Sion, Switzerland) will sign an agreement establishing three training courses for mediators, including a European master’s course in mediation.⁵

B. Parental responsibilities (art. 18, paras. 1 and 2)

100. The principles governing parental authority were set out in paragraphs 216 ff. of the initial report.

⁵ This agreement was signed in January 2002.

101. Paragraph 218 of the initial report refers to article 380 of the Civil Code on the exercise of parental authority over children born out of wedlock. It was indicated that parental authority over children born out of wedlock is exercised by the mother. This paragraph needs to be revised. Thus, in its judgement No. 7/99 of 26 March 1999, the Constitutional Court declared that article 380 of the Civil Code was contrary to the principle of equality recognized by article 11(2) of the Constitution inasmuch as it assigned parental authority over a natural child acknowledged by both parents exclusively to the mother.

In a judgement dated 15 March 2000, the Court of Appeal (guardianship) held that this judgement of the Constitutional Court *“thus implies, in negative terms, the extinction of the pre-eminence of the maternal bond in cases of acknowledgement of the child by both its parents and, in positive terms, the equal right of each parent to exercise parental authority”*. The Court of Appeal continued: *“The judgement of 26 March does not necessarily imply the principle of the joint exercise of parental authority”* and *“the constitutional requirement of equality is in fact satisfied by the assignment of the exercise of parental authority to the mother or to the father, the choice to be determined by the interests of the child”*.

102. The provisions relating to guardianship (paragraphs 219 to 223) have not changed since the initial report.

103. The part of the initial report concerning transfers and services (paragraphs 224 to 250) calls for the following comments.

104. The amended Guaranteed Minimum Income (RMG) Act of 26 July 1986 was repealed and replaced by the Act of 29 April 1999 establishing a right to a guaranteed minimum income.

The purpose of the new Act is to provide adequate means of subsistence. It emphasizes and strengthens the right to a guaranteed minimum income (RMG) and vocational and social reintegration.

The conditions for granting the guaranteed minimum income have been eased, among other things, by revising the residence requirement and lowering the age threshold (25 years), and steps have been taken to prevent possible abuse.

Article 5(3) of the Act reaffirms the principle according to which in determining the guaranteed minimum income each child entitled to family allowances living in the domestic community is taken into account.

However, the age limit of 25 does not operate in certain specified cases and, in particular, for persons bringing up a child for which they receive family allowances.

105. In paragraph 227, the initial report indicated that the rate of the minimum social wage is determined by the age and qualifications of the recipient. The level of the minimum social wage for adolescent workers under the age of 18 is fixed as a percentage of the minimum social wage for adults. The Act of 22 December 2000 amending articles 5 and 14 of the amended Act of 12 March 1973 reforming the minimum social wage set these percentages at 80% for adolescents aged 17 to 18 and at 75% for adolescents aged 15 to 17.

106. The Act of 8 December 2000 concerning the prevention of overindebtedness and introducing a collective debt settlement procedure in cases of overindebtedness includes measures designed to preserve the rights of persons entitled to maintenance. Thus:

- Article 3(3): *“The lodgement of the formal application by the debtor with the Overindebtedness Information and Advisory Service shall automatically entail the suspension of ongoing measures of execution against the movable or immovable property of the debtor, with the exception of execution proceedings introduced against the debtor concerning his maintenance obligation.”*
- Article 12: *“The district judge ruling in collective receivership proceedings may at any stage of the proceedings suspend the ongoing measures of execution against the movable or immovable property of the debtor, with the exception of execution proceedings introduced against the debtor concerning his maintenance obligation.”*

107. The Act of 12 February 1999 concerning the implementation of the 1998 national plan of action for the promotion of employment includes provisions relating to young workers. To offer a fresh start for young people not yet over 30 who have been on the unemployment register for at least one month, this Act introduced the temporary auxiliary contract and the work placement scheme which focus on the training of young job seekers and assign them hiring priority. Employers who provide work for young people under one of these measures receive contributions from the State which are then topped up if the young people employed are members of the underrepresented sex.

108. Reference should also be made to paragraphs 232 and 233 of the initial report concerning the Welfare Domicile Act of 28 May 1897.

109. The information provided in the initial report is cited and supplemented below.

C. Benefits

1. Family benefits

110. There is a very clear theoretical distinction between family benefits, based in principle on the presence of a child, and maternity benefits based on a social risk, that of maternity.

This difference also emerges at the institutional level, the National Family Benefits Fund being competent for family benefits, whereas the health insurance funds are responsible for covering the maternity risk.

It should be noted, however, that certain benefits fall on the borderline between family benefits and maternity benefits. This is the case with the maternity grant and the childbirth allowance which are triggered by the birth of a child. These two benefits are intended not to cover a maternity risk but to provide in each case a universal lump-sum benefit. Because of the amount involved, the maternity grant resembles a replacement income without its intrinsic characteristics: in particular, it is neither taxable nor subject to the payment of social security contributions. This universal benefit is suspended up to:

- the amount of the cash maternity benefit paid by the health insurance fund and covering the maternity risk;
- the remuneration which the person concerned continues to receive under a statutory or contractual provision;
- unemployment benefit.

In some cases, the maternity grant supplements the maternity benefits.

As for childbirth allowances, they represent a public health incentive and are linked with the medical checks prescribed. This benefit does not cover the maternity risk either. It may be cumulated with both the maternity grant and a cash benefit or remuneration paid during the period of maternity leave.

Family allowances (paragraphs 244 to 246 of the initial report)

111. Every child raised continuously in Luxembourg and legally resident there has the right to family allowances.

The condition that the child must have been raised continuously in Luxembourg is satisfied in respect of the child by six months' uninterrupted actual residence after issue of provisional permission to take up residence under the Alien Entry and Residence Act. An interruption of less than three months will not cause this condition to fail.

It should be noted that persons subject to Luxembourg law are entitled to family allowances for children with the status of family member who are living abroad, in accordance with the relevant provisions of the Community regulations or other international social security agreements concluded by Luxembourg.

The allowance is payable from the month of birth up to the age of 18. It continues to be paid up to the age of 27 if the beneficiary is following, as his main occupation, a course of study in Luxembourg or abroad, provided he maintains his legal residence in Luxembourg.

The family allowance, determined as a function of the family group to which the child beneficiary belongs, is set at:

143.38 €(5,784 LUF) per month per child;

174.86 €(7,054 LUF) per month for each child of a group of two children;

217.63 €(8,779 LUF) per month for each child of a group of three children.

This amount is increased on average by 303.03 €(12,224 LUF) per month for each additional child.

The amounts thus fixed are increased monthly by:

14.63 €(590 LUF) for each child from the month in which it reaches the age of six;

49.93 €(1,722 LUF) from the month in which it reaches the age of twelve.

“Back-to-school” allowance (paragraph 248 of the initial report)

112. A “back-to-school” allowance which varies with the age of the child and the family group is paid for children over six years of age. The children entitled to the allowance and the family group are determined in accordance with the provisions relating to family allowances.

The “back-to-school” allowance amounts:

1. for one child to:
 - 102.50 €(4,135 LUF) if the child is more than six years old;
 - 146.46 €(5,908 LUF) if the child is more than twelve years old;
2. for a group of two children to:
 - 175.76 €(7,090 LUF) for each child over the age of six;
 - 219.68 €(8,862 LUF) for each child over the age of twelve;
3. for a group of three children or more to:
 - 248.98 €(10,044 LUF) for each child over the age of six;
 - 292.91 €(11,816 LUF) for each child over the age of twelve.

The allowance is due when the child goes back to school. It is paid out automatically for all children benefiting from family allowances in the month of August of the same year who meet the age requirement.

Education allowance (paragraph 247 of the initial report)

113. The education allowance is granted to any person who:

- (a) is domiciled in Luxembourg and actually resides there;
- (b) is raising in his/her home one or more children for whom the applicant or his/her non-separated spouse is paid family allowances;
- (c) devotes him/herself mainly to bringing up the children in the family home and does not carry on a professional activity or does not benefit from a replacement income. Moreover, the allowance is paid to any person who carries on a professional activity and disposes, together with the non-separated spouse or the person with whom he or she lives in a domestic community, of an income that does not exceed, after deduction of any social security contributions:
 - three times the minimum social wage (3,870.63 €/ 156.141 LUF) if he or she is raising one child;

- four times the same wage (5,160.85 €/ 208,188 LUF) if he or she is raising two children;
- five times the same wage (6,451.06 €/ 260,235 LUF) if he or she is raising three or more children.

By way of exception to the above, a person may claim half the education allowance, regardless of his/her income, if that person:

- carries on a part-time professional activity, provided that the total time actually worked each week does not exceed half the normal working time applicable over the same period by virtue of the law or a collective labour agreement;
- devotes him/herself mainly to bringing up the children in the family home during a period at least equivalent to half the normal working time.

The allowance stops on the first day of the month following that in which the child reaches the age of two. It is maintained if the person awarded the allowance is raising three or more children in the home, as long as one of the children is less than four years old, or is raising in the home a disabled child less than four years old.

The education allowance is fixed at 439.39 €(17,725 LUF) per month whatever the number of children raised in the same home.

Childbirth allowance (paragraphs 242 and 243 of the initial report)

114. The birth of any viable child gives entitlement to a childbirth allowance payable in three instalments.

In order to receive the first instalment, a pregnant woman must present herself during pregnancy for at least five medical checks and one dental check. To receive the second instalment, the mother must present herself for a postnatal examination to check whether her health has been affected by the pregnancy. To receive the third instalment, the parent or any other person having custody of the child must present it for two postnatal checks and four subsequent checks up to the age of two years.

The childbirth allowance is 1,576.53 €(63,597 LUF). It is paid on request in three instalments of 525.51 €(21,199 LUF) each.

Maternity allowance (paragraph 240 of the initial report)

115. Any pregnant woman and any mother of a newborn child having her legal domicile in Luxembourg at the time of entitlement is eligible for a maternity allowance.

The allowance is paid during a maximum period of 16 weeks starting from the eighth week preceding confinement.

The maternity grant is fixed at 175.76 €(7,090 LUF) per week. If paid for the maximum of 16 weeks it amounts to 2,812.10 €(113,440 LUF).

2. Benefits in kind

116. In crèches, places are reserved for moderate-income families. Moreover, the prices of agreement nurseries (with State financial participation) are adjusted according to the combined incomes of both parents. In special cases, the authorities make places purchased in private facilities available to moderate-income families.

117. The tax code provides for deductions for child-minding expenses.

3. Specific measures linked with labour legislation

118. Under the Act of 12 February 1999, six months' parental leave may be granted to any person who:

- raises in his/her home one or more children under 5 years of age for whom family allowances are paid;
- devotes him/herself mainly to bringing up the child or children and does not carry on any professional activity during the period of parental leave or engage in a part-time activity;
- is domiciled in the Grand Duchy of Luxembourg and resides there continuously or falls within the scope of Regulation 1408/71;
- is legally and continuously employed in a place of work situated on the territory of the Grand Duchy of Luxembourg at the time of birth or initiation of legal child adoption proceedings, either on his/her own account or for at least a year preceding the commencement of the parental leave with the same enterprise legally established in Luxembourg, under a contract of employment or apprenticeship with monthly working hours at least equal to half the normal working hours applicable within the enterprise by virtue of the law or a collective labour agreement (it should be noted that the Act provides for an exception for persons obliged to change employer for economic reasons for which they are not responsible);
- is affiliated for a continuous period of 12 months immediately preceding the commencement of the leave either as an employee, self-employed person or helping spouse or as an official, clerk or worker employed by the State, a commune, a public institution or the national railway company.

During parental leave the employment contract is suspended (guarantee of re-employment).

By agreement with the employer, the qualifying parent may take 12 months' part-time parental leave. In this case, his/her professional activity must be reduced by at least half the normal monthly working hours applicable to him/her under the law or a collective labour agreement.

Parental leave gives entitlement to a flat-rate cash benefit fixed at 1,611.11 €(64,992 LUF) per month for full-time leave and 805.55 €(32,496 LUF) per month for part-time leave.

119. The labour legislation also provides for leave days for family events such as marriages, births and deaths.

4. Family-related measures associated with other branches of social security

120. In the area of pension insurance, the State will pay pension insurance contributions for a maximum period of 24 or 48 months (different conditions) for the parent who following the birth of a child has given up or reduced his or her professional activity (baby years).

121. Leave for family reasons may be granted to an insured person with a dependent child aged under 15 where because of serious illness or accident or for some other overriding reason the presence of one of the parents is required.

The period of leave for family reasons may not exceed two days per child per one parent. This period may be extended, with the approval of the social security physician, for children with an exceptionally serious illness or deficiency, in particular, cancers in the progressive phase and illnesses involving hospitalization in an acute care ward for more than two consecutive weeks.

The allowance granted during leave for family reasons is calculated in the same way as the sickness cash benefit.

In some collective labour agreements, this right is extended in time and to other dependants.

5. Housing benefits

122. Housing benefits were dealt with in paragraphs 234 to 235 of the initial report. The purpose of housing benefits, which are regulated by the amended Housing Benefit Act of 25 February 1979, is to encourage private individuals to buy their own home by helping them to save up the necessary down payment through various grants or by reducing their monthly loan repayments through interest subsidies and rebates.

The capital grants available are:

- the construction subsidy;
- the purchase subsidy;
- the savings subsidy;
- the home-improvement grant;
- the supplementary grant for architect's and engineer's fees;
- the special adaptation grant for physically disabled persons.

Interest relief includes, in particular, all the interest subsidies granted to households which have taken out a mortgage to purchase their own home. The amount of interest subsidy is determined by the income and family situation of the beneficiary, whereas the interest rebate, which is viewed primarily from the family standpoint, is not linked with any income requirement.

Moreover, the State is authorized, under the amended Act of 1979, to guarantee, on behalf of a borrower unable to provide the lending institution with adequate security of their own, the repayment of the principal, interest and ancillary costs of mortgages granted for a dwelling used as the principal residence. Another measure by means of which the State hopes to facilitate home-buying by large families which cannot provide sufficient security of their own to obtain the necessary mortgage from a financial institution is the slum loan.

6. State financial assistance for higher education

123. Even though students in higher education do not come within the scope of the Convention on the Rights of the Child, it should be noted that the State provides financial assistance for students following a course of higher education.

The financial assistance for post-secondary studies comprises:

- State financial assistance for higher education in the form of study grants;
- State financial assistance for higher education in the form of interest subsidies;
- university scholarships for students who are needy or have social problems.

On 22 June 2000, a new Act on State financial assistance for higher education was passed in the Chamber of Deputies. The Grand-Ducal Regulation of 5 October 2000 on State financial assistance was published on 9 November 2000. The new Act is intended to solve certain problems and meet the expectations of students by making adjustments such as:

- redefining the term “higher education” more clearly and precisely;
- extending financial assistance to third-cycle studies;
- alleviating student indebtedness, in particular by means of incentive grants and by adapting the amount of registration costs taken into account in calculating the student’s budget;
- restricting “student tourism” by clearly defining the possibilities of switching courses;
- clarifying the role of the State in the event of repayment difficulties.

D. Separation from the parents (art. 9)

124. Separation from the parents was dealt with in paragraphs 277 to 306 of the initial report.

Paragraphs 278 to 298 (reception centres), 299 to 305 (foster homes) and 306 (socio-familial assistance services) need to be partially revised, as the Act of 8 September 1998

governing relations between the State and organizations working in the social, family and therapeutic fields (see paragraph 30) has had a direct impact on the areas in question.

1. Reception centres for children and young adults, with accommodation

125. Pursuant to articles 1 and 2 of the Act of 8 September 1998, the Grand-Ducal Regulation of 16 April 1999 on the accreditation of managers of reception centres for children and young adults, with accommodation, subjects to governmental accreditation the pursuit of any of the following activities:

- *traditional reception centres*, i.e. a service or part of a service with an appropriate infrastructure, the purpose of which is to receive and house, in full-time accommodation, on a permanent or temporary basis, more than three children or young people at a time;
- *short-stay “family problem” homes (FADEP)*, i.e. a service or part of a service with an appropriate infrastructure, the purpose of which is to take in and accommodate, by day and/or by night, in an emergency, more than three children or young adults at a time; the service presupposes emergency situations and intervenes at moments of family crisis; in principle, the period of placement is restricted to three months;
- *special reception centres*, i.e. a service with an appropriate infrastructure, the purpose of which is to take in and accommodate, by day and/or by night, as an alternative or supplement to the services mentioned above, more than three children or young adults at a time; the service provides educational, psychological, social, therapeutic and, occasionally, school support by providing specialized care adapted to the individual needs of the users;
- *open-environment accommodation service*, i.e. a service which aims to prepare children and young adults emerging from one of the above-mentioned institutions to lead an independent life and reintegrate into society through various supervised social housing schemes;
- *socio-vocational integration centres*, i.e. a service designed to supplement the above-mentioned services by taking in more than three children or young adults at a time, with a staff and an infrastructure that enable it to offer users practical instruction within the context of specific job placement programmes; the service enables young people to learn to adapt to the tempo of the workplace and acquire a certain basic practical knowledge;
- *open-environment accompaniment centres*, i.e. a service organized for those leaving the above-mentioned services which offers, as an alternative or supplement to placement, psycho-pedagogical and social accompaniment for children, young adults and their circle by providing social training, advice, family mediation, aid, assistance, counselling and motivation.

126. The task of the reception centres is to provide their inmates with harmonious development within a framework of socialization and social integration and participation.

127. It should be recalled that most reception centres are run by private bodies (non-profit associations or foundations). Private reception centres supply most of the available places and their services are subsidized under agreements with the Ministry of the Family, Social Solidarity and Youth. These agreements assure the manager of a substantial contribution from public funds and confer on the public authorities the rights of inspection and cooperation.

In 2000, the State had agreements with 13 organizations managing 17 reception centres or institutions. The private centres had a total capacity of more than 500 places. The State children's homes manage 8 centres with a total capacity of more than 80 places. These operate on the same pedagogical and therapeutic principles as the private centres.

About 20% of the expenditure of the reception centres is covered by their so-called "own revenue": various allowances, contributions from communes (refuges), parents and the inmates themselves. The balance of the operating expenses is made up by the ministry responsible.

128. In 2000, the National Placements Arbitration Commission (CNA)) (paragraph 281 of the initial report) received 132 applications and was able to place 95 children in private or public centres. Some 40 applications were withdrawn because other solutions had been found (generally, the child remained with or was returned to its family, provided with educational assistance, was directed toward other care facilities or was placed in a foster home). In 2000, the actual total number of placements was 102 (95 from the waiting list and 7 without passing through the waiting list).

Requests for placement in private and public centres come mostly but not exclusively from the courts (56% of the 102 placements). In 2000, some 5% of applications were lodged directly by the family of origin.

Out of the 95 placements from the waiting list in 2000, 38 were voluntary and 57 were ordered by the courts. Out of the 102 actual placements, 56 were children aged under 12 and 46 young people between the ages of 12 and 18 at the time of placement.

Over recent decades the average duration of placements in reception centres has declined. For example, out of 123 children and young people who left the centres in 2000, 52 had spent less than two years there and 39 between 2 and 5 years. Eleven of the children who came out in 2000 had been in the centre for more than 10 years. The placement authorities and the centre's managers and teachers generally view placement as more of an ad hoc measure to facilitate a child's reintegration into his original environment.

As the duration of placements in reception centres continues to decline, the supervision of former inmates is assuming ever greater importance. In fact, the return of the child to its original environment creates problems of adaptation within the family. To avoid failures of reintegration, the reception centres are often having to provide long-term supervision, without always having the necessary staff at their disposal.

129. The open-environment accommodation services such as the boarding houses for young people and supervised accommodation that exist in most reception centres were established in order to provide young people who have grown up in group surroundings with a transitional phase to enable them to learn to live independently and re-establish a certain personal equilibrium.

130. Thirty-three out of the 102 children admitted to the reception centres came from short-stay family-problem homes (FADEP). These homes, which provide 40 or so places, are special units of the reception centres. They operate as flexible groups, open 24 hours a day, and are intended in particular for short-term placements (4.64 months on average in 2000):

- “family problem” placements (parents seriously ill, hospitalization, urgent trips abroad, etc.);
- “emergency” placements (family crisis, suspicion of maltreatment or abuse, etc.);
- “counselling” placements (to enable professionals to assess and clarify the situation of the child and its family and prepare proposals for more permanent measures).

The socio-pedagogical work carried out in the short-stay family-problem homes requires particular flexibility on the part of the teaching teams. Constantly confronted with placement situations which cannot be foreseen and for which preparations cannot be made, the teachers are required to devise creative short-term responses and to involve the largest possible number of potential partners (parents, teachers, various professionals). Intensive work with the family can often resolve a crisis. For example, some of the inmates have been allowed to return home provided that they and/or their family agree to a social supervision measure.

The experience of recent years shows that admission to a short-stay home constitutes a favourable move even if it is impossible for the child to return quickly to its family; in fact, a stay in the FADEP prepares the child for transfer to a reception centre under more favourable conditions both for the child itself and its parents and the “family” unit’s teachers; such stays can thus make a big contribution to reducing the risks of failure of the placement measure.

131. On 31 December 2000, according to information provided by the Ministry of the Family, Social Solidarity and Youth, 404 children and adolescents were in full-time placement outside the family home in various institutions:

- 305 in private or agreement reception centres;
- 43 in short-stay family-problem homes;
- 56 in State children’s homes.

2. Foster care

132. With regard to foster care, reference should be made to paragraphs 299 to 305 of the initial report. As at 31 December 2000, Luxembourg had 222 children placed with foster families.

3. Socio-familial assistance services

133. For the sake of completeness, it should be recalled that in this chapter (paragraph 306) the initial report also described the various socio-familial assistance services such as, in particular, assistance with accommodation, socio-vocational integration and counselling measures, the battle against drug addiction, and daytime shelter and meals.

E. Family reunification (art. 10)

134. In principle, paragraphs 251 to 257 of the initial report still apply.

F. Illicit transfer and non-return (art. 11)

135. The legislative measures that Luxembourg has taken in this respect are of two kinds.

136. On the one hand, the provisions of the Criminal Code make it an offence to kidnap a child. Reference should be made to paragraph 271 (*Sale, trafficking and abduction of children*) of this report and paragraph 748 of Luxembourg's initial report.

137. On the other hand, Luxembourg having become party to several international treaties relating to this issue, the Act of 10 August 1992 introduced into the Code of Civil Procedure special provisions (1108-1116) which apply to international judicial assistance in respect of the right to custody of children and visiting rights.

Thus, by Act of 16 May 1986, Luxembourg approved the Convention on Civil Aspects of International Child Abduction, done at The Hague on 25 October 1980. By Act of 28 February 1983, it approved the European Convention on Recognition and Enforcement of Decisions concerning Custody of Children and on Restoration of Custody of Children, signed at Luxembourg on 20 May 1980.

The Grand Duchy of Luxembourg and Belgium had an arrangement for repatriating minor children removed from parental authority or guardianship which dated back to 19 July 1933. More recently, however, bilateral treaties have been concluded between the Government of the Grand Duchy of Luxembourg and the Government of the French Republic, on the one hand, and between the Government of the Grand Duchy of Luxembourg and the Government of the Kingdom of Belgium, on the other. These two agreements, concluded on 4 April 1987 and relating to judicial assistance in cases of custody and visiting rights, were approved by Act of 10 August 1992. A similar agreement between the Grand Duchy of Luxembourg and the Portuguese Republic was concluded on 12 June 1992 and approved by Act of 18 March 1995.

For the purposes of all these agreements, the Procurator General is the competent central authority in Luxembourg. The leading role of the Government Procurator's Office is confirmed by article 1109 of the new Code of Civil Procedure which authorizes the State procurator to institute any proceedings relating to the implementation of these agreements, without prejudice to the right of any interested party to bring an action, at any point in the proceedings, before the competent court, or the right of the central authority to instruct counsel.

It is the president of the district court in whose jurisdiction the child was found who is competent to rule, under the urgent procedure, on any action for immediate return.

138. There are no statistics available in Luxembourg concerning cases of abduction or illicit transfer of children. However, these cases appear to be quite infrequent (3-4 illicit transfers a year and 2-3 cases of non-return following the exercise of visiting rights). As these situations mainly arise in the context of a family dispute, and especially in connection with a divorce, it would seem difficult to prevent them. In general, the Government Procurator's Office first tries to settle the problem amicably through mediation with a view to securing the voluntary return of the child. Failing agreement, it proceeds in accordance with articles 1111 ff. of the new Code of Civil Procedure.

G. Recovery of maintenance for the child (art. 27, para. 4)

139. This matter is regulated by the Act of 26 July 1980 on the payment and recovery of maintenance by the National Solidarity Fund and by the Grand-Ducal Regulation of 2 December 1983 setting out the modalities for the application of the Act of 26 July 1980. Paragraphs 258 to 259 of the initial report provide further information.

On 31 December 2000, there were 205 beneficiaries.

H. Children deprived of their family environment (art. 20)

140. This chapter needs to be reviewed insofar as the new Act of 8 September 1998 governing relations between the State and organizations working in the social, family and therapeutic fields applies to child reception centres.

Thus, reference should be made to paragraphs 125 to 131 (*Reception centres for children and young adults, with accommodation*) and 132 to 133 (*Foster care*), as well as to paragraphs 185 to 187 (*Day care facilities*), 188 to 191 (*Services offering care by child-minders*) and 192 to 196 (*Academic and socio-familial boarding homes*) of this report.

I. Adoption (art. 21)

141. Adoption was dealt with in paragraphs 307 to 314 of the initial report.

142. Under the Act of 31 January 1998 on the Accreditation of Adoption Services and the Definition of their Obligations only pre-accredited public or private corporations may serve as an intermediary in the adoption of a minor. Adoption applications by future adoptive parents must be lodged with these accredited organizations.

All adoption organizations must equip themselves with qualified staff and certify the preparation of candidates. According to the Act, these services must, among other things, “ensure that the persons and institutions whose consent is required for the adoption have been provided with all the necessary advice and are properly informed about the implications of their consent, in particular about the continuation or termination, as a result of an adoption, of the legal links between the child and its family of origin”.

When a country of origin requires the files on prospective adoptive parents to be prepared or transmitted by the competent national authority or by the duly accredited services, the Ministry of the Family, Social Solidarity and Youth acts as that authority.

143. Moreover, the Luxembourg Government has just prepared a bill ratifying the Hague Convention of 29 May 1993 on Protection of Children and Cooperation in Respect of Intercountry Adoption. The indispensable consultations on the preliminary draft at national level have just begun and the bill could be submitted to the Chamber of Deputies in the course of 2002.⁶

144. The adoption activities of the Ministry of the Family, Social Solidarity and Youth can be set out in terms of the list of duties for which it is responsible under international standards such as those described in the Hague Convention on intercountry adoption:

- co-operate with the authorities of the countries of origin and keep them generally informed about the legislation, procedures and intermediaries in the host country;
- take measures to prevent improper financial or other gain and deter practices contrary to the objects of adoption;
- collect, preserve and exchange information about the situation of the child and the prospective adoptive parents;
- facilitate, follow and expedite proceedings;
- promote the development of adoption counselling and post-adoption services;
- exchange general evaluation reports with the countries of origin;
- reply to requests for information about particular situations;
- accredit adoption services.

As the aforementioned Hague Convention provides, some of the duties listed may be delegated to accredited services

These services gather all the information needed to assess the aptitude of the applicants. They are required to consult a team of professionals in the fields of social sciences, psychology, medicine and law. This information is sent to the country of origin of the child which, in its turn, examines it and proposes a child for adoption. At the same time, the service prepares the prospective adoptive parents.

145. In autumn of 2000, the Ministry of the Family arranged a meeting of the European central authorities to brief the special commission of the Hague Conference on Private

⁶ Act of 14 April 2002:

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

International Law on the functioning of the 1993 Hague Convention. This meeting was held from 28 November to 1 December 2000.

J. Periodic review of placement (art. 25)

146. According to article 37 of the 1992 Protection of Young People Act, *“the measures ordered by the youth court or judge (...) may be revoked or amended, in the minor's best interests, at any time either on the initiative of the court or judge or at the request of the Public Prosecutor's Office, the minor, his parents, guardian or other persons having custody of him, or on the report of a probation officer.*

However, when the request is made by the minor, his parents, guardian or other persons having custody of him, it may not be submitted until one year has elapsed from the date on which the decision ordering the measure became final. If the request is rejected, it may not be resubmitted until one year has elapsed from the date on which the decision to reject became final. In any event, these measures are subject to review every three years if they have not meanwhile ceased to have effect ...”.

K. Abandonment or neglect (art. 19), including physical and psychological recovery and social reintegration (art. 39)

147. Protection from maltreatment (article 19) was dealt with in paragraphs 315 to 360 and physical and psychological recovery and social reintegration measures in paragraphs 669 to 694 of the initial report.

1. Legislation and judicial measures and procedures of protection against all forms of abuse of children

148. It should be recalled that the Luxembourg legislature has adopted two types of legislative measure to combat all forms of violence, brutality or neglect with respect to children: measures addressing adults (in particular adults who have authority over children) and custody, education and protection measures addressing children.

a. Legislation and measures addressing adults

149. The principal innovation is the new Act of 31 May 1999 strengthening the measures against trafficking in human beings and the sexual exploitation of children and amending the Criminal Code.

150. The following provisions, which formed the subject of paragraphs 316 to 330 of the initial report, should also be recalled:

- article 401 bis of the Criminal Code on acts of violence and privations directed against children;
- article 391 bis of the Criminal Code on abandonment by family;
- articles 372 to 375 of the Criminal Code on indecent assault and rape;

- article 410-1 of the Criminal Code on culpable non-intervention;
- article 371-1 of the Criminal Code on kidnapping and non-surrender of a child;
- articles 387-1 to 387-8 of the Civil Code Act of 18 April 1984) on delegation of parental authority;
- the Protection of Young People Act of 10 August 1992 and more particularly article 11 on transfer of parental authority;
- article 2 of the Act of 18 April 1984 on trusteeship of social benefits;
- articles 387-9 ff. of the Civil Code (Act of 18 April 1984) on suspension of parental authority.

b. Judicial proceedings and custody, education and protection measures addressing children

151. This subject was dealt with in paragraphs 331 to 341 of the initial report. As the 1992 amended Protection of Young People Act has not been amended since, reference should be made to that report.

2. Bodies concerned with the prevention, detection and treatment of all forms of maltreatment and neglect of children

152. Paragraphs 342 to 358 of the initial report described the main competent services and bodies and reference should be made to those paragraphs. However, the following comments also need to be made.

153. The situation as described in paragraph 342 of the initial report is that which existed on 1 April 2001, the date of entry into force of the agreement of 19 January 2001 on the sharing of social activities between the Luxembourg League for Preventive and Medico-social Action (League) and the Luxembourg Red Cross (Red Cross).

Since this agreement, social activities have been shared out between the two institutions as follows:

League	Red Cross
<ul style="list-style-type: none"> - Health activities - Specialized social services, i.e.: <ul style="list-style-type: none"> -- regional social action service -- service to combat overindebtedness - Social accompaniment service - Hospital social service 	<ul style="list-style-type: none"> - Community social service

The community social service and the social accompaniment service are for all residents of Luxembourg. The two services play a primary role in preventing, identifying and treating all forms of maltreatment and neglect of children.

154. The Red Cross community social service is a general-purpose front-line social service which:

- operates throughout Luxembourg;
- provides psycho-social and material assistance for the entire population with no age limit;
- provides the initial response in social emergencies.

The target population of the community social service includes:

- social assistance applicants;
- anyone who does not fit within one of the categories for which the League is responsible;
- clients requiring occasional ad hoc assistance;
- individuals and families in emergency situations;
- “rapid assessments” of emergency situations for the long-term care insurance “assessment and guidance unit”;
- social surveys of clients at the request of social offices and ministries.

The community social service is divided up into geographical sectors based on commune boundaries.

The League’s social accompaniment service

155. The social accompaniment service is a second-line social service whose general mission is to help ensure that those referred to it, in particular by the public services, have access to services, institutions and benefits under Luxembourg’s existing social legislation and protection system.

The social assistance is designed to be long-term; its aim is to achieve a sustained improvement in the client’s social situation although in some cases it may merely stabilize that situation. The social accompaniment service backs up and supplements the activities of the administrations and services of the Ministries of the Family and Social Solidarity, Justice, National Education, Housing, Social Security and Health, the local authorities and social offices by specifically contributing the methods and techniques of social work.

The service takes on individuals and even families whose needs and social problems call for long-term social assistance such as, for example:

- recipients of the insertion allowance;
- persons addicted to psychotropic substances;
- persons suffering from psychological disorders;
- persons who are physically and/or psychologically dependent;
- persons placed in curatorship or guardianship;
- children and young people with family problems;
- parents overwhelmed by responsibility for their children;
- clients/households with long-term financial problems requiring budgetary advice or budget management, voluntary or otherwise;
- anyone else in difficulty.

The Kanner-Jugendtelefon (KAJUTEL)

156. KAJUTEL (hotline for children and young people) continues to offer children and adolescents, over the telephone (number to call: 12345), aid and support with problems of various kinds under the seal of anonymity. In 2000, the service began offering a wider range of means of access. Thus, it is now possible to obtain individual advice anonymously via e-mail, web site and homepage. In 2000, there were 641 telephone contacts.

The special intervention unit “Info Viol - Sexual Abuse”

157. In 1999, at the initiative of the Ministry of the Family, Social Solidarity and Youth, a unique telephone number was assigned to the special intervention unit “Info Viol - Sexual Abuse” (number to call: 49 58 54) which coordinates intervention among the various partners who make up the unit.

Assistance can be provided for professionals who suspecting the sexual abuse of a child seek advice on how to proceed. The intervention unit consists of professionals employed by various organizations whose work involves the prevention of sexual abuse and the treatment, ambulatory or in permanent treatment centres, of victims and their family.

VI. HEALTH AND WELFARE

(arts. 6, 18, para. 3, 23, 24, 26 and 27, paras. 1 to 3)

A. Disabled children (art. 23)

158. Actions on behalf of disabled children were dealt with in paragraphs 426 to 458 of the initial report.

159. Up until August 1999, the date of the last government reshuffle, coordination of policy in favour of disabled persons was the responsibility of the Minister for the Disabled and

Accident Victims. In accordance with the principle of “mainstreaming” or indeed normalization which governs disability policy, in 1999 ministerial policy for disabled persons was assigned to the Minister for the Family, Social Solidarity and Youth.

160. The Act of 19 June 1998 introducing long-term care insurance includes disabled persons, both children and adults, within its scope. Long-term care insurance is a new branch of social security which entered into force on 1 January 1999.

Long-term care insurance covers one of life’s risks, namely, dependence on a third party for the organization of everyday life. It is a form of compulsory social insurance which confers on the person protected an unconditional right. The causes of dependency vary and may be physical, psychological or mental.

The underlying deficiencies may involve the motor organs (e.g. amputation), the sensory organs (e.g. blindness), the mental capacities (e.g. mental retardation) or functional disorders of the internal organs.

Every applicant is personally assessed by a multidisciplinary team (assessment and guidance unit, a public service under the authority of the Minister for Social Security attached to the General Social Security Inspectorate). This team verifies the reasons for dependency and draws up an individual treatment plan. To qualify for long-term care insurance benefits the person concerned must be affiliated to a Luxembourg health insurance fund and must need at least 3.5 hours a week of care and assistance with the essential functions of life. The essential functions of life are hygiene (washing, shaving, etc.), eating and mobility. Moreover, the benefits granted take into account domestic tasks, support measures (supervision, outings), the products needed to provide care and assistance, any necessary equipment, adaptation of the home, and measures on behalf of informal carers (payment of a pension contribution, replacement of the carer for three weeks every year).

The benefits may be provided in cash or in kind (professional services). Where the dependent person lives at home, the assistance taken into account may extend to a maximum of 40.5 hours a week. To prevent possible abuse, cash benefits are calculated on the basis of a maximum of only 10.5 hours a week. The beneficiary is allowed to combine the benefits in cash and in kind. Every year, the monetary value of an hour of care and assistance is negotiated between the Union of Health Insurance Funds and the Confederation of Assistance and Care Providers. The costs are covered by the compulsory contributions of persons with an income (1% of the effective income) and by annual budget appropriations. The principle of derivative rights is applied.

161. The Ministry of the Family, Social Solidarity and Youth intends to promote the coordination of the process of individual treatment of the disabled person in accordance with the recommendations of the plan of action on behalf of disabled persons adopted in 1997. To this end, a working group has been instructed to develop a project involving the establishment of a single case file for the disabled person and the family. The group’s solution will be implemented in the form of a two-year pilot project aimed at the disabled population up to the age of 6.

162. In implementation of articles 1 and 2 of the Act of 8 September 1998 governing relations between the State and organizations working in the social, familial and therapeutic

fields (see paragraph 30), a Grand-Ducal Regulation on the governmental accreditation of managers of services for disabled persons has been brought into force. This Regulation is intended to lay down basic and quality standards for all the services for disabled persons through accreditation to be granted by the Minister for the Family, Social Solidarity and Youth.

It should be noted that, where disability is concerned, the associations offer, in principle, several types of activities or services to a well-defined population. These activities are grouped according to the purpose of the exercise, namely, accommodation, day care, training, employment, communication, early assistance and home help.

The types of services covered by the Regulation are:

- *Accommodation service* offering accommodation and/or support for more than three disabled persons in an institutional, semi-institutional or family environment. The aim is to help users manage their daily activities by providing pedagogical, psychological, social and therapeutic accompaniment adapted to their individual needs.
- *Day care services* offering day care for more than three seriously or multiply disabled persons. The aim is to provide relief for families looking after disabled relatives at home. The services provided by the management vary according to the individual needs of the user.
- *Training services* offering training for more than three disabled adolescents and/or adults over the age of compulsory education. The aim is to provide them with knowledge of a general and/or vocational nature thereby preparing them to lead an active life in the future.
- *Employment services* offering occupational work for educational and/or therapeutic purposes to more than three persons who because of their disability are unable to keep up with the tempo of the workplace in an ordinary or sheltered environment. The aim is to stimulate the capabilities and promote the personal development of users through a useful activity.
- *Communication services* offering information, advisory, organizational and get-together activities for disabled persons and their relatives. The aim is to prevent isolation and social exclusion.
- *Early assistance services* offering early treatment for young children with special needs, together with support for the family concerned. The aim is to limit the effects of a deficiency or even to compensate for retarded development through functional rehabilitation, pedagogical stimulation, socio-educational guidance and family accompaniment.
- *Home help services* offering care and/or material and psychological assistance for disabled persons within the family environment, together with support for their relatives. The aim is to make it easier for a disabled person to be looked after at home.

Under the terms of article 2, the above-mentioned Regulation does not apply to sheltered workshops or differentiated education centres, which are covered by specific legislation.

163. The Accessibility of Public Premises Act of 29 March 2001 is intended to ensure access to public premises for all citizens, and in particular those with permanently or temporarily reduced mobility, by introducing measures to adapt and organize the physical and social environment. The measures envisaged concern new construction and major renovations of public premises belonging to the State, communes and public institutions. The accessibility requirements also apply to establishments intended for social, familial and therapeutic purposes that receive financial assistance from the State through the special fund for financing socio-familial infrastructure.

164. Reorganized by the Ministerial Regulation of 16 December 1998, the Disabled Persons Council is an advisory body reporting to the Minister for the Family, Social Solidarity and Youth. The Council, which consists mainly of representatives of associations of/for disabled persons, of whom at least half are persons directly concerned, i.e. persons disabled by some deficiency or the parents of those who cannot represent themselves, is responsible, among other things, for assisting and advising the Minister on the coordination of policy on behalf of disabled persons, for bringing together for this purpose the partners involved, for giving an opinion on any bill or draft regulation concerning disability and for examining any question submitted to it, as well as any issue which in its view merits consideration.

165. As far as the general principles are concerned, reference should be made to paragraphs 426 to 428 of the initial report.

166. In accordance with the coalition programme, the Government is preparing to maintain coordination in the area of disability and follow a consistent and global policy on behalf of disabled persons.

167. At the time of preparation of this report, the non-profit organization Info-Handicap had a list of 41 member associations in the field of disability. A new “guide to disability” appeared in February 2001. Moreover, a “guide to standards” on environmental accessibility was published and circulated at the end of 1999. This guide should provide an answer to questions relating to the accessibility of the built environment, transport and tourism.

168. Self-assertion courses for women and girls with a disability have gone beyond the stage of the project initiated by the European DAPHNE programme. In 2000, two courses targeted women and girls with a mental disability.

169. Regarding the efforts made in connection with the education of disabled children, reference should be made to Chapter VII and more particularly the paragraphs concerning the educational integration of disabled children and coeducation.

170. For many years the agreement day care facilities for children (see paragraphs 185 to 187 of this report) have been working on the social integration of children requiring additional attention either because of a physical or mental problem or because of retarded development.

As at 1 November 2000, the agreement day care facilities were looking after 58 children requiring additional attention because of major disabilities (spina bifida, trisomy 21, Rubinstein's syndrome, polytraumatism, debility, speech disorders, epilepsy, microcephaly, bilateral schizencephaly, post-tumoral pedicular paralysis) or less serious disorders (general or cognitive retardation, behavioural disorders, auditory deficiencies, hyperactivity).

The day care centres have access to funds that enable them to recruit additional staff and pay for the services of outside consultants.

The results achieved over the years by the teaching teams of the agreement day care facilities, working in close collaboration with the early rehabilitation services approved by the Ministry of the Family, Social Solidarity and Youth (Orthopedagogical Early Intervention Service) and the Ministry of Health ("Hëllef fir de Puppelchen" Service, Early Rehabilitation Service), show clearly that if the integration of children requiring additional attention is based on the collaboration of all the parties concerned, the facility can provide valuable assistance for both the child and its parents.

B. Health and health care services (art. 24)

171. The WHO defines health as a state of complete physical, mental and social well-being. For a person to stay in good health his fundamental needs must be satisfied and he must have the ability to adapt to a constantly changing environment. To achieve the objective of health and well-being, special efforts have been made in the areas of promotion, prevention and health care.

The promotion of health, the prevention and treatment of disease and the creation of an environment that favours the comprehensive development of the child are all priorities.

Special emphasis has been placed on an interdisciplinary and multi-sectorial approach.

1. Collection of reliable data on the health and well-being of children and young people

Survey of immunization coverage in the Grand Duchy of Luxembourg

172. This survey carried out from September to October 1996, in collaboration with the Public Health School of Brussels Free University, involved a sample of 600 children aged from 26 to 30 months. A questionnaire was drawn up for collecting information in the field. The survey was conducted by the staff of the multipurpose medico-social and social service of the Luxembourg League for Preventive and Medico-Social Action and the Luxembourg Red Cross. The participation rate was 92.4%. This coverage is one of the highest in Europe. The results all show that the immunization of children is a well accepted prevention technique. The basic immunization of children has reached almost 90% for the various vaccines, despite changes in the immunization schedule as a result of the introduction of new vaccines.

The availability of free vaccines has meant that there are virtually no social inequalities as far as preventive immunization is concerned.

Ioduria surveys

173. In 1998 and 1999, ioduria evaluation studies were carried out in the schools on a representative sample of pupils in the seventh year of classical secondary and technical secondary education. These studies confirmed a moderate iodine intake deficiency in the Luxembourg population.

A third similar study, carried out in April and May 2001, is being evaluated. It will throw light on the trend in iodine coverage, in particular following the measures taken, such as for example the use of iodized salt for baking bread or preparing charcuterie.

Study of juvenile mortality in Luxembourg from 1967 to 1997

174. The aim of this study is to analyze the main causes of mortality in young people and the evolution of these causes over time. The results of this study have not yet been published.

Study of young people's well-being

175. This study was carried out jointly with the Ministry of National Education, Vocational Training and Sport on a representative sample of 9,000 pupils in classical and technical secondary education, as well as on about 800 primary school pupils, which amounts to about 28% of the entire school population. The aim of the study was to obtain information about young people's state of health. It was designed in accordance with the protocol of the WHO's HBSC (Health Behaviour of School-aged Children) study, so as to make it possible to compare the results with those of other participating countries. The evaluation of the results will be published toward the end of 2001.

2. Health promotion activities

176. These activities are conducted by the Preventive Medicine and School Medicine Divisions.

177. Regular actions in various areas of health promotion have been undertaken in collaboration with the Ministry of National Education, Vocational Training and Sport (e.g. within the framework of the "schools for health promotion"), as well as with the Ministry of the Family, Social Solidarity and Youth and the National Youth Service.

178. First national prize for health promotion 2000

The interdisciplinary jury of the first national prize for health promotion awarded prizes to several projects involving children and young people:

- initiatives to prevent and combat drug addiction (Abrigado project);
- development of the personality and promotion of a favourable environment in pre-school education;
- improved communications and well-being of all the partners in a secondary education establishment;

- development of life skills, development possibilities in a rehabilitative environment.

179. The Preventive Medicine Division has developed multiple activities in relation to:

- the prevention of alcohol abuse among young people;
- the anti-smoking campaign;
- the anti-drugs campaign;
- the AIDS prevention campaign;
- the promotion of healthy living (breastfeeding, healthy diet, physical exercise);
- the “Baby-Friendly Hospital”.

180. The pro-immunization campaign

Further to the recommendations of the Hygiene Council and the appearance of new vaccines, the recommended immunization schedule has undergone successive reviews. The quality, effectiveness and safety of the available vaccines have been improved.

The recommended vaccines include vaccines against diphtheria, tetanus, pertussis, poliomyelitis, measles, rubella and mumps. Two immunizations have recently been introduced into the immunization programme:

- Immunization against hepatitis B is for infants from the age of one month, as well as for adolescents at age 12. Immunization against hepatitis B is free of charge up to the age of 18.
- Immunization against *Haemophilus influenzae* type b is combined with diphtheria, tetanus, acellular pertussis and injectable polio vaccines.

Since June 2001, the Hygiene Council has been recommending the immunization of children and adolescents aged from 1 to 19 against group C meningococcus.

3. Health surveillance

181. School medicine measures and examinations have been carried out in accordance with the legislation (Act of 2 December 1987 and Grand-Ducal Regulations of 21 December 1990 and 20 November 1993). They have been aimed at all enrolled pupils, starting from the first year of pre-school education. Special attention has been paid to improving the quality of the services provided.

182. In order to create an educational climate that favours the development of well-being and motivation with a view to promoting scholastic success and combating all forms of violence and other suffering the Pedagogical and Technological Research and Innovation Coordination Service (SCRIPT) of the Ministry of National Education, Vocational Training and Sport coordinates activities at the five levels of action identified by the Ottawa Charter, namely:

- the individual: to develop psycho-social and cognitive skills;
- the group: to promote social responsibilities at class, teacher training college and parental levels (“everyday citizenship”);
- the organization/institution: to view schools as learning organizations (school development, school profile);
- the environment: to develop the school in and with its environment (networking with partners);
- society/politics: to promote the importance of young people’s well-being and health.

C. Social security and child care services and facilities (arts. 26 and 18, para. 3)

1. Social security

183. Luxembourg social security covers the traditional aspects, i.e. sickness, accident and old age, as well as long-term care. In this connection, reference should be made to paragraphs 201 to 215 of the initial report and, as regards long-term care insurance, to paragraph 160 of this report.

2. Child care services and facilities (art. 18, para. 3)

184. The child care services and facilities are described in Chapter 6.5 of the initial report “*Educational child care services*” (paragraphs 260 to 276).

(a) Day care facilities:

185. Paragraphs 261 to 267 of the initial report (*Day centres and nurseries*) need supplementing.

186. The Act of 8 September 1998 governing relations between the State and organizations working in the social, family and therapeutic fields (see paragraph 30) subjects to governmental accreditation the reception and accommodation of more than three persons at a time by day and/or night insofar as these activities are undertaken or carried on other than casually and for consideration.

Hence the daytime minding of more than three children at a time, as mainly provided by day centres and nurseries, falls within the scope of this Act.

An implementing regulation - Grand-Ducal Regulation of 20 December 2001 implementing articles 1 and 2 of the Act of 8 September 1998 governing relations between the State and organizations working in the social, family and therapeutic fields as regards the governmental accreditation of managers of day care facilities for children, without accommodation - lays down the requirements for carrying on such an activity.

The regulation applies more particularly to the following activities:

- *Crèches*, i.e. any service that receives and takes educational responsibility, without providing accommodation, for children under four years of age or not yet attending school, within a professional infrastructure.
- *Day centres for children*, i.e. any service that receives and takes educational responsibility, without providing accommodation, for children in early, pre-school or primary education, within a professional infrastructure, outside school hours or during school holidays.
- *School meals service*, i.e. any service that receives, feeds and supervises children of school age at lunchtime.
- *Homework aid service*, i.e. any non-school service that receives and supervises, without providing accommodation, primary school pupils outside school hours with a view to offering them recreational activities and assistance with their homework.
- *Nursery*, i.e. any service that spontaneously receives and supervises, without accommodation, children under the age of 8, within a professional infrastructure, for less than 16 hours per week per child.

187. On 31 December 2000, there were 185 day care facilities for children registered with the Ministry of the Family, Social Solidarity and Youth. It should be noted that a guidance service “info crèches” which offers general information on agreement day care facilities, their opening hours, parents’ scale of contributions, etc. is available to parents.

In 2000, 1,798 children were enrolled in agreement day care facilities for a total of 1,513 agreement places. These enrolments can be broken down as follows: 1,361 children or 75.7% enrolled full-time, 330 children or 18.35% enrolled for from 5 to 8 half-days per week and 107 children or 5.95% enrolled for less than 5 half-days per week. Note that 27.3% of these children came from single-parent families and that in 42.5% of cases both parents worked full-time. As at 1 November 2000, the agreement day care facilities were taking in 58 children with special needs suffering from major disabilities (trisomy 21, debility, epilepsy, etc.) or less severe disorders (general or cognitive retardation, hyperactivity, etc.).

In 2000, 11 nurseries with 170 places signed agreements with the Ministry of the Family, Social Solidarity and Youth.

(b) Services offering care by child-minders

188. These services were dealt with in paragraphs 268 and 269 of the initial report.

189. Two Grand-Ducal Regulations on this subject have been adopted since the initial report was prepared, namely:

- Grand-Ducal Regulation of 14 January 2000 establishing the conditions for the accreditation of family placement assistance services provided for by the Act of 8 September 1998 governing relations between the State and organizations working in the social, family and therapeutic fields;
- Grand-Ducal Regulation of 29 March 2001 establishing the conditions and formalities for the accreditation of the activity of receiving and accommodating, by day and/or by night, more than three and fewer than eight minors at a time, in the home of the person carrying on the activity, provided for by the Act of 8 September 1998 governing relations between the State and organizations working in the social, family and therapeutic fields.

190. At the end of 2000, 308 children were being looked after by individuals (child-minders, babysitters, Tagesmütter) for periods ranging from 4 to 12 hours a day.

191. The allowance paid by the “family placement” services is €7.90 (reimbursement of overheads) and €13.16 (daily remuneration).

(c) Academic and socio-familial boarding schools

192. Paragraphs 270 to 276 of the initial report concerning academic and socio-familial boarding schools need to be supplemented.

193. In 2000, the State is directly managing 3 academic boarding schools and has signed agreements in connection with 9 socio-familial boarding schools. The socio-familial boarding schools have a total capacity of 523 full boarding places and 690 semi-boarding places. In the case of full boarding, the parental contribution covers only a small part of the operating expenses (7 to 30%).

194. It should be noted that the Act of 29 April 1999 authorized the Government to build and equip a socio-familial boarding school at Diekirch. This modern boarding school will replace the present State school which has been in existence since 1830.

195. Moreover, a special “boarding school” working group, composed of representatives of the Ministry of the Family, Social Solidarity and Youth and the managers of various agreement socio-familial boarding schools, which has done the preparatory work on a new agreement, has also considered the various effects of the Act of 8 September 1998 governing relations between the State and organizations working in the social, familial and therapeutic fields.

196. For information, it should be pointed out that the management committee mentioned in paragraph 276 has been replaced by a cooperation platform (ASFT Act).

D. Standard of living (art. 27, paras. 1 to 3)

197. Aid and social welfare were dealt with in paragraphs 459 to 486 of the initial report.

198. Two new laws have just been passed in the areas of anti-poverty measures and social exclusion.

199. The Act of 29 April 1999 establishing the right to a guaranteed minimum income, which repealed the amended Act of 26 July 1986, stressed the right to a guaranteed minimum income (RMG).

The main changes introduced by this Act are as follows:

- Upgrading of insertion measures:

The new Act places greater emphasis on active measures (in particular, the insertion efforts that must be made by the RMG beneficiaries themselves) as compared with passive measures.

Thus, participation in social and vocational insertion measures, called “supplementary social measures” after the old act, has been made into a requirement for eligibility for the guaranteed minimum income. Accordingly, any applicant for such benefits considered fit for work must ask to participate in the insertion measures in order to maintain his right to an RMG benefit (insertion allowance and/or supplementary allowance). Only applicants who are not fit either for the ordinary job market or for the measures under the RMG Act, and those who are exempted under a legal provision, have the right to the supplementary allowance without participating in the insertion measures.

The participation of the beneficiary in a vocational insertion activity is remunerated in accordance with the minimum social wage scales. This remuneration also gives entitlement to affiliation to the pension scheme. Moreover, in determining resources the insertion allowance is taken into consideration only through an exemption corresponding to 20% of the guaranteed minimum income to which the beneficiary (or his domestic community) is entitled.

- Lowering of the age threshold:

The threshold has been lowered from age 30 to age 25. The exceptions for persons raising a child and persons unable to earn a living within the limits laid down by the RMG Act (i.e. persons unable to find a job on the ordinary labour market) are maintained.

- Easing of the residence requirement:

This requirement has also been eased from 10 to 5 years. Those who qualify as stateless or as political refugees do not need to meet this requirement.

- Simplified treatment of the maintenance obligation:

In determining the resources of an applicant the children’s maintenance obligation toward the parents is no longer taken into account.

- Abandonment, for the parent raising a child less than six years old, of the exemption from participation in vocational insertion activities:

The Act eliminates this poverty trap which mainly affected women. Thus, if the care, education and safekeeping of the child are ensured, the responsible parent must take part, in his or her own interest, in vocational insertion measures.

- Exemption of the occupational income of a child beneficiary of the RMG:

In determining household resources, the occupational income of a child is not taken into consideration up to the guaranteed minimum income for a single adult provided that the child has not yet reached the age of 25.

- Other changes:

Finally, the Act adopts clearer and more favourable rules on the fixing of benefits in kind and establishes the principle of non-reimbursement of the insertion allowance. Moreover, rental charges payable are taken into account on a more favourable basis.

200. On 31 December 2000, the National Social Assistance Service (SNAS) had 8,751 RMG beneficiaries (4,746 women and 4,005 men) in 5,873 households. Of these households 77.13% were childless, 9.60% had 1 child, 7.41% had 2 children, 4.04% had 3 children, 1.23% had 4 children, and 0.60% had 5 children or more. It should be noted that 19.81% of the members of the households receiving either the insertion allowance or the supplementary allowance were less than 18 years old.

201. The Act of 8 December 2000 concerning the prevention of overindebtedness and introducing a collective debt settlement procedure in cases of overindebtedness established a coherent legal system for preventing overindebtedness and advising, counselling and assisting overindebted natural persons. Further details can be found in paragraph 106 of this report.

202. Reference should also be made to paragraphs 109 ff. of this report dealing with family benefits.

VII. EDUCATION AND LEISURE, RECREATIONAL AND CULTURAL ACTIVITIES (arts. 28, 29 and 31)

A. Education, including vocational training and guidance (art. 28)

1. The Organization of Primary Education Act

203. A new act amending the Organization of Primary Education Act of 10 August 1912 is in the process of being drafted. Within this context, it is proposed to introduce a clearer definition of the child/teacher and teacher/parent relationships.

2. Early education: optimal integration and stimulation of the child from early childhood

204. Early education for children from the age of 3 will be introduced progressively up to the start of school year 2004/2005, when provision will become compulsory for all communes. However, early education remains optional for parents and their children. Early education is offered free of charge by public establishments (see under “Objectives of education”).

3. School inclusion of children with disabilities

205. In accordance with the principle of equality of all children before the law, in 1999 the schooling of disabled children was placed under the sole responsibility of the Ministry of National Education, Vocational Training and Sport.

Obviously, the introduction of compulsory school attendance for disabled children represented a major advance in combating discrimination against them. Thus it is clear that their schooling should be the responsibility of the same ministry as that responsible for all other school-age children.

However, as it would not be appropriate to offer all pupils the same courses regardless of their abilities and needs, individualized teaching should be provided. Since the introduction of the School Integration Act in 1994, children who are disabled and/or have special educational needs can receive compulsory education either in an ordinary class or in a specialized differentiated education institution. Depending on the special needs of the child, all the partners involved, both professionals and parents, are required to consult on the most appropriate form of schooling. Whatever the form of schooling chosen by the parents, an individualized education plan is drawn up for the children concerned at the start of the school year.

The professionals of the Counselling Service for Children in Differentiated Education receive and accompany children with psychopedagogical problems of school and family origin. Acting under the aegis of the Ministry of National Education, Vocational Training and Sport, they carry out their tasks, where necessary, in collaboration with the competent representatives of other ministries.

The professionals of this service and those of the Ambulatory Rehabilitation Service need to get together and pool their skills and know-how in the interests of the children seeking aid and support.

The rehabilitation measures provided after school hours for pupils with dyslexia have been reinforced.

It remains to add that the integration of disabled children is not confined to their attending school.

With respect to the efforts made to care for children with special needs in agreement day care facilities, reference should be made to paragraph 187 of this report.

4. Education of foreign children

General coordination

206. In 1997, the Ministry of National Education appointed a coordinator for the education of foreign children and, at the beginning of 1998, published a guidance document on the education of non-Luxembourg children entitled “For an integrated school - facts, questions, prospects”.

The 1999 coalition agreement

207. The present Government’s coalition agreement provides for a number of measures relating to the education of foreign pupils:

Aware both of the difficulties created by the enrolment of numerous non-Luxembourg children in the Luxembourg school system and the absolute necessity of preserving integrated schools, the Government is to set up pilot French literacy projects. These pilot projects will focus on the districts with a large foreign population and will be carried out in schools that also provide other classes. By teaching German as a foreign language these projects will aim to enable romance-language speaking children to reach a level that facilitates their reintegration into traditional units.

Moreover, the Government intends to introduce into secondary education a specific languages regime within the context of the creation of an “international baccalaureate”.

Pilot projects to replace the first and second years of study in primary education by a three-year continuous learning cycle will be introduced. This will make it possible to structure the first years of education more flexibly. These measures will be carried out in parallel with the introduction of transitional arrangements between pre-school and primary education which should be more flexible and make greater allowance for the actual development of each child. Such a solution should also make it possible to organize a dialogue between parents and teachers from the pre-school stage.

Policy debate in the Chamber of Deputies, 29 November 2000

208. During a policy debate on the integrated school, the Chamber of Deputies adopted a 24-recommendation motion on the education of pupils with a foreign mother tongue. The Ministry of National Education, Vocational Training and Sport has set up a working group to look into the practical implementation of this motion.

Specific measures for the education of pupils with a foreign mother tongue:

209. These measures are as follows:

- Induction of newcomers in Luxembourg’s schools: In Luxembourg’s schools a knowledge of the country’s three official languages, namely, Luxembourgish, German and French, is required. The classes for newcomers are intended to give the pupils the linguistic knowledge they need to continue their studies in normal or French-speaking classes.

- Primary education classes: Very young children are enrolled in normal pre-school or primary classes where they learn Luxembourgish, German and French. In some communes, induction classes have been organized for foreign pupils arriving in the country at an age at which their integration into a first or second year course of study is no longer justified.
- Development of mother tongues and native cultures: Portuguese and Italian children are able to follow integrated primary education courses in their mother tongue. The aim is to develop the language and culture of origin of non-Luxembourg children as part of a school-for-all approach and to avoid placing on the children the extra burden of attending mother-tongue courses on free afternoons.
- Technical secondary education classes: Technical secondary education offers various types of induction classes for newly arrived pupils aged 12 to 16. In the middle and higher technical education cycle various forms of vocational training are offered with French as the common language.
- Technical secondary education and vocational training in French: The first steps toward developing vocational training in French have been taken, in particular within the context of the European Social Fund.
- Education for the children of asylum seekers: A raft of measures for the education of the children of asylum seekers has been adopted by the Ministry of National Education. They are set out in paragraph 244 of this report.

5. Psychology and counselling

210. One of the measures adopted by the Grand Duchy of Luxembourg which significantly encourages the protection of the rights of the child is the recruitment, under the PAN (national plan of action for the promotion of employment) Act, of 22 men and women social workers and 9 graduate teachers to the SPOS (School Psychology and Counselling Services) of the post-primary education system.

The school psychology and counselling teams are now definitely multidisciplinary:

Previously, the SPOS were composed of psychologists and teacher-counsellors. The social and educational work which, in the past, could be carried out only on an ad hoc basis will henceforth systematically supplement the pedagogical and psychological activities in our high schools with a view to:

- closer collaboration in and with the families;
- the organization of educational extracurricular activities;
- the development of relations of trust between young people and adults.

Another initiative, just as important as the recruitment of additional socio-educational personnel and likewise aimed at improving the supervision of young people, is the initial and

continued training of these recruits in parallel with that of the existing staff of the School Psychology and Counselling Services.

It is within this context that the School Psychology and Counselling Centre has devised and formulated a systematic training programme designed to be practical and down to earth and aimed at the acquisition of new skills.

6. Prospective reform of the preparatory regime in technical secondary education

211. In view of the increasing number of pupils arriving from primary school without a guidance report (“*avis d’orientation*”) and lacking the knowledge necessary to follow the curriculum of the preparatory regime of technical secondary education, the Ministry of National Education is drawing up a framework plan for pupils with specific educational needs. Pilot classes will be organized in each technical high school providing preparatory regime classes from the start of school year 2001-2002.

B. Objectives of education (art. 29)

1. Early education: optimal integration and stimulation of the child from an early age

212. The aim is to improve the socialization of the children, as well as to ensure the harmonious integration of immigrant children and familiarize them with the national language and culture, as Luxembourg society is multilingual and characterized by a very substantial immigrant population.

As early childhood constitutes a phase of intense development, it is desirable to stimulate the child’s potential from the age of three in an environment that encourages interaction with its peers.

In fact, the development of the very young benefits from the socialization opportunities provided by a group composed of children of diverse origin.

The task of pedagogical and educational policy is to provide from early childhood an education in equality of opportunity and the recognition, acceptance and celebration of differences while pointedly rejecting exclusion and discrimination.

The challenges of early education

213. Developments in early childhood prepare the ground for a life of independence, discovery and life-long learning.

Early education is aimed at the global development of the child, a process which should be continued into pre-school education. By interacting with others, the child can develop its language, communicational and social, physical and motor, and affective and cognitive abilities.

Encouraging children to talk and find pleasure in doing so and giving them access to the multiple dimensions of a varied and interesting outside world are primary objectives of early education.

As regards the language aspect, the integration of a large number of immigrant children faces Luxembourg with a particularly serious challenge. Familiarization with Luxembourg's language and culture is a priority considering the need for successful integration firstly into school and then into society. Luxembourgish should not become a factor that leads to exclusion or even discrimination but should play a unifying role.

As regards the social aspect, Luxembourg society, like any developed society, is confronted by certain factors that can have a disintegrating effect on an educational project, factors resulting in particular from socio-economic and family trends. International studies have shown that young children who have benefited from good development and learning programmes have a better chance than others of completing the school cycle and achieving valid life goals (cf. Colin N. Power, "Initiation into Active Methods" Unesco Publications 1999). In this sense, early education constitutes the cornerstone of a social system that would guarantee its members the best possible opportunity for personal and collective development. By bringing together Luxembourg and foreign children, girls and boys, with and without specific educational needs, early education provides a meeting place where all the children learn to live together and respect each other while accepting their characteristic differences.

Basic methodological options of early education

214. Early education recognizes, respects and encourages the uniqueness of every child. It starts out from the principle that the child is a complex being that develops globally when it interacts with its environment. It stresses the fact that the child is an active learner and tries to encourage it to choose its activities in accordance with its personal tastes and interests. It acknowledges that the child learns primarily through play and takes full advantage of social activities in the peer group. It emphasizes the importance of close collaboration between the teaching staff and parents.

The child is an unique being: Every child has its personal characteristics, its preferences and its talents which make it an unique individual. Early education recognizes and encourages the personality of every child. It respects the level and rhythm of development of each child and tries to respond in the best possible way to the needs of all the children. It is primarily interested in individual progress and is aware of the risks of a summary assessment of the child against pre-established standards.

The development of the child is a global and integrated process: All the components of development, the physical and motor, intellectual, linguistic and socio-affective dimensions, are involved to differing degrees in the same activity. Any progress made in a particular area contributes to the development of all the development components.

Early education must respect the play instincts of the child while developing its activities. It is important to let the child choose its games since in this way it can improve its abilities while extending its control of the environment.

The integration of children of foreign origin will be most successful if the relations with the families are based on respect and understanding. Appreciation of the mother culture has a positive effect on the development of the child's personality and promotes the academic and social integration of immigrant children.

Coeducation

215. As public pedagogical institutions, early education groups, at commune level and for all children, perform fundamental functions in the service of development and social and cultural integration. They provide a favourable environment for interaction and communication in which the children can satisfy many of their needs for activity, participation and self-realization while benefiting from an education and an aid to development tailored to the requirements of their age.

There is now a general consensus concerning the advantages that social integration can offer children with disabilities.

The fact remains that early education professionals are becoming increasingly concerned with the integration of children with developmental and behavioural particularities and their education alongside other children.

To a greater extent than before, apart from educational and pedagogical skills, it is above all social and psycho-pedagogical skills that are called for and make it possible to undertake a multidisciplinary and preventive task aimed at avoiding or alleviating the development problems of children exposed to more difficult living conditions. Thus, early education should combine differentiated and specific forms of support in its global educational project and in the general context of the development aids it offers.

Prevention and compensation: two key functions of early education

Simply by existing early education groups already have a preventive and compensatory effect since they offer the children a certain compensation for their less favourable starting conditions. By evolving in a heterogeneous educational group the child is able to draw on the very first source of development of personality traits, i.e. cooperation with other human beings. What the child has learned, in an initial stage thanks to interaction with the other members of the group, it will later be able to apply on its own.

Thus, early education can compensate for certain unfavourable circumstances by acting as a protective and preventive factor. It thus helps to prevent or moderate the adverse consequences and long-term effects of any handicaps at development level.

The task of the teaching staff is to assess the children's strengths and weaknesses and to take them into account in their pedagogical approach.

By thus satisfying the basic psychological needs of all children aged 3 to 4 and in concerning itself with their need for safety and protection, guidance, stimulation, initiative, identity, individuality, expression and communication, institutional early education leads all children, including the most disadvantaged, to develop a positive and stable image of themselves. In this respect, it constitutes an important aid to the integration of all children, whatever their differences, into school and society.

Involvement of the parents in early education

216. In entrusting their children to the public school, the parents temporarily transfer part of their responsibilities to the educational institution while retaining their rights and duties as the primary educators of their children. The school and the family cannot do without each other. Both parties benefit from collaboration in their efforts to ensure the children's well-being. The responsibilities of the two partners - school and family - are complementary.

The partnership, that is to say the good relations between school and family, will be maintained and consolidated during the rest of the child's school career.

The building infrastructure

217. The aim of early education is the global development of the child. It provides a place for interaction and educational games in which all the child's communicational, social, physical, psychomotor, affective and cognitive skills can best be developed.

It is especially important that the rooms be properly fitted out. The environment must be both stimulating and reassuring. These considerations should be borne in mind when designing the buildings and furniture. The age of the children should be taken into account and efforts should be made to create a family atmosphere that encourages a climate of trust and closeness between all the members of the group.

Obviously, all the facilities should be suitable for children with motor disabilities.

2. Pre-school education

218. Like the primary school, the nursery school is a place of social integration: it brings together children from all socio-economic environments, it takes in the children of immigrant parents and, within the limits of its resources, children who are retarded, have disabilities or require special care.

As part of an educational process whose chances of success it helps to increase, pre-school education has seen a considerable expansion of its mission and the challenges it faces.

The mission of the nursery school

219. Educating a child means helping it to progress from a state of dependency to a state of independence and responsibility. Education is a continuous process which begins in the family and extends throughout and beyond the years of school attendance. Pre-school education is part of this process within which it plays its own specific role.

The mission of the nursery school is to contribute to:

- the development of all aspects of the child's personality;
- the acquisition of knowledge and know-how;
- mastery of the environment;

- insertion into the cultural milieu;
- the development of thoughtful and responsible behaviour;
- integration into social and school life;
- compensation for environment-related deficits and the prevention of school maladjustments.

The objectives of pre-school education are defined in terms of the various aspects of the personality. The list is confined to the more important objectives, namely, the psychomotor, affective, social and cognitive domains and the domain of communication.

Intercultural education

220. Life in the class group enables children of different linguistic and cultural origins to communicate, play and work together and thus to develop attitudes of mutual understanding and respect.

Over and above these spontaneous exchanges, the nursery school encourages interaction between cultures by incorporating into the educational projects elements of the culture of the countries of origin, such as fairy tales, songs, festivals, ways of living, eating and building, etc.

The appreciation of the native culture has a positive effect on the development of the child's personality and promotes the scholastic and social integration of immigrant children.

Integration of disadvantaged children

221. School has its limits. It cannot solve every problem associated with the personal characteristics of the child and the environment from which it comes. However, it can help the child.

Giving a disadvantaged child confidence and the feeling of being respected and accepted is not an easy task. One means of accomplishing it is to take into account the contribution which the child itself can make to the proposed activities and to give that contribution value by incorporating it into the educational project for the class. At the same time, regular contact with the family facilitates understanding of the nature of the difficulties encountered and hence makes it easier to assist the child.

Cooperation between nursery school, parents and community

222. Education is a continuous process which cannot be fragmented. During the first years of life the most important place of learning is the family home. To be effective, pre-school education must be based, as far as possible, on the child-rearing efforts of the parents. The two are complementary.

3. Pupils in difficulties

223. Since 1997, the Ministry of National Education, through the Pedagogical and Technological Research and Innovation Coordination Service, has been financially supporting,

monitoring and coordinating pedagogical projects aimed at encouraging the reintegration of pupils who fail to keep up.

Through these projects, which are being implemented in almost all the technical high schools, the Ministry is reaching both children with learning difficulties and newcomers. By means of internal differentiation, while respecting the difficulties and learning speeds of the pupils, the teachers involved in these projects aim to take a positive approach rather than one based on failure in order to enable these young people in difficulties to acquire vocational training. Through group work, scientific, technological and artistic activities developed in a multidisciplinary context these projects also aim to develop the social and relational skills of the pupils to the greatest possible extent.

Thus, a framework plan for pupils in difficulties is in the process of being prepared and should become effective at the start of the 2001-2002 school year. This framework plan will take into account the pedagogical experience acquired in the various projects and will therefore make it possible to generalize this new pedagogical approach.

Moreover, the Pedagogical and Technological Research and Innovation Coordination Service, in collaboration with the teachers of the preparatory cycle, is developing materials for learning Luxembourgish (textbooks and audio CD) for newly arriving pupils in order to facilitate to the greatest possible extent their rapid integration into Luxembourg's social life. The need for such a course is all the greater in that the existing textbooks are mainly for adults. The topics dealt with in the various modules take into account the centres of interest of the young people and their communication needs. Two textbooks have already been published and a third will appear shortly, while the audio CD is scheduled for 2002.

4. The rights of the child and human rights

224. The teaching of human rights, including the rights of the child, is an integral part of the curricula and programmes of Luxembourg's primary and post-primary education.

This subject calls for a "mainstreaming" approach and has therefore been explicitly incorporated in the following branches:

- moral and social education (primary education);
- moral and social training (post-primary education);
- awakening to the sciences ("sozialer Erfahrungsbereich");
- civic and social education;
- knowledge of the modern world;
- language teaching;
- natural and social sciences (history and geography);
- religious and moral instruction.

Daily experience of human rights in the school context enables the pupils implicitly to develop cognitive and psychosocial skills as well as the ability to act consistently and logically.

School textbooks

225. The primary school textbooks have been reviewed with the aim of adapting the passages dealing with human rights.

For the purposes of secondary and technical secondary education, a commission of experts has proposed an awareness-raising and training action for the members of the national committees responsible for school programmes and textbooks.

Reform of moral and social training in post-primary education

226. The national committee for moral and social training programmes has established a new schedule for all post-primary education classes. Human rights are at the root of their thinking. Pupils will have the opportunity to acquaint themselves with the relevant texts and engage personally. The new programme will enter into effect from the start of the 2001-2002 school year. In order to ensure that the programme is implemented in accordance with the objectives, the teaching staff will receive continued training during the first two years following its introduction.

Awareness-raising and information campaign concerning the European Human Rights Convention

227. Within the context of Luxembourg's presidency of the Council of Europe from May to November 2002, the Ministry of National Education will launch an awareness-raising and information campaign concerning the European Human Rights Convention for teachers in a position to introduce this topic into their courses (languages, history, geography, civics, moral and social training, knowledge of the modern world, natural sciences). Teaching leaflets prepared by the Council of Europe will be made available to the teaching staff and they will be offered special training.

Innovation projects, school projects and establishment projects

228. All the projects (innovation projects, school projects and establishment projects) coordinated by the Ministry of National Education support the principles laid down in the Convention on the Rights of the Child.

The following establishment projects are good examples:

- Echternach classical high school: the project aims to make young people more aware, through cooperation with humanitarian organizations, of the problem of underdevelopment and to encourage them to contribute to the building of a society that displays greater solidarity;
- Luxembourg high school for boys: the project is concerned with the anti-violence campaign. The aim is to analyze aggressive behaviour in all its forms, in several courses and at all class levels, in terms of the chapters and subjects of the official programmes for the respective classes. Obviously, human rights are also addressed within this context. The courses in which these ideas are discussed include history (war and peace, terrorism and tolerance), geography (economic situation, wealth

and poverty), biology (races), religious and moral instruction (religious beliefs, fanaticism, discrimination) and language courses.

5. Gender equality

229. In relation to articles 28 (right to education on the basis of equal opportunity) and 29 (preparation of the child for responsible life in the spirit of equality of sexes), the Ministry of National Education has taken specific measures to make the teaching staff aware of the gender perspective, to analyze the access, choices and academic results of girls and boys and to diversify their academic and vocational options.

To promote a pedagogy that respects equality, appreciates diversity and avoids reproducing stereotyped images of human beings, the Ministry has drawn up a practical guide for those who prepare teaching materials, is organizing training for the teaching staff and supporting the “education in equality” actions of the Ministry for the Promotion of Women.

6. Promotion of health, campaign against violence and prevention of drug addiction

230. As health is a decisive factor in the personal and professional development of the pupils, teachers and educators, the creation of healthy places of learning and work may be expected to lead to an improvement in the school climate and hence in the quality of the education offered by our schools.

To create a school climate that favours the development of well-being and motivation with a view to promoting scholastic success and combating all forms of violence, the Pedagogical and Technological Research and Innovation Coordination Service (SCRIPT) is coordinating the activities forming part of the 5 levels of action defined by the Ottawa Charter. For details reference should be made to Chapter VI.B.3 “*Health surveillance*”.

Within the health promotion context, the Ministry has intensified its regular information and awareness-raising, organizational, accompanying, training and documentation activities in the various areas of health promotion (in particular, by promoting a healthy diet, affective and sex education, and the prevention of drug addiction, violence and AIDS) and environmental education.

Moreover, the Ministry has instructed the School Psychology and Counselling Centre (CPOS) to set up a working group on the prevention of violence in school to work on the various forms of violence that exist in the school context.

7. Environmental education

231. In accordance with the Resolution of the Council and the Representatives of the Governments of the Member States meeting within the Council of 1 February 1993 on a Community programme of policy and action in relation to the environment and sustainable development, environmental education is officially defined in the framework plan for early education (2000), the framework plan for pre-school education (1997), the curriculum for primary education (1989) and in the programmes of specified branches of post-primary education (biology, moral and social training, health and environmental education, technology-environment-health).

Early and pre-school education and primary and post-primary education aim to promote the global development of the child in its socio-cultural and natural context. The various activities are adapted to the cognitive, psychomotor, affective and social development of the child.

The environmental criteria to be applied in building new schools have been defined by the Grand-Ducal Education Commission.

C. Leisure, recreational and cultural activities

232. In the paragraphs 620 to 623, the initial report drew attention to:

- the legal recognition of the right of the child to leisure and to recreational, cultural and artistic activities;
- the existence of institutions and forms of leisure activity for children, for example:
 - (a) public organizations such as the National Youth Service, National Education and the Commune Authorities;
 - (b) private organizations funded by the public authorities such as the Primary School Sports Associations League and the Luxembourg Students' Sports Associations League, together with the "Art à l'Ecole" association and the "Panda-Club";
 - (c) private bodies such as the General Conference of Luxembourg Youth, the federation of music, choral, theatre and traditional-dance societies, the guides and scouts, the sports federations and sports and leisure associations, the holiday services and youth clubs.

1. Legal recognition of the right of the child to leisure and to recreational, cultural and artistic activities

233. In relation to the right of the child to rest and leisure, to engage in play and recreational activities appropriate to its age and to participate freely in cultural life and the arts, on 23 March 2001, paragraph 620 of the initial report was the subject of a debate in the Chamber of Deputies in connection with the passage of the Protection of Young Workers Act of 23 March 2001.

In article 7 of the new Act the participation of children in such activities is regulated as follows:

"Art. 7 (1) The participation of children, for gain or in a professional capacity, in audiovisual or cultural, artistic, sporting or advertising activities, as well as in the fashion sector, shall be prohibited.

The prohibition specified in the first subparagraph shall also apply to the participation of children, even if not for gain or in a non-professional capacity, in activities which are commercial in nature or form part of the ordinary activity of the organizer, promoter or enterprise for which the children carry out the activity.

The prohibition specified in the first subparagraph shall not apply to the participation of the child, otherwise than for gain, in the activities mentioned therein either as a member of a sports, cultural or artistic association or within the framework of association activities.

(2) However, at the written request of the organizer of the activity, accompanied by the written permission of the child's legal representative, a preliminary individual permit may be issued by the minister having labour among his responsibilities or his representative, after consulting the Director of the Factory and Mines Inspectorate or his representative, the ministries having national education, vocational training and the family among their responsibilities and the consulting physician. The Director of the Factory and Mines Inspectorate may also request, in accordance with paragraph (1) of the amended Act of 4 April 1974 on the reorganization of the Factory and Mines Inspectorate, the opinion of a doctor other than the consulting physician.

With a view to the application of this article, the term "organizer" of an activity within the meaning of the preceding subparagraph is also taken to mean, in particular, persons, associations, companies and other bodies assuming any responsibility, in fact or in law, in the organization of the activity or financing it, together with agencies, managers, impresarios and others, associations, companies or bodies concerned with the presence of the child in the activities specified in this article.

(3) No permit may be issued for variety shows and cabarets.

(4) Children shall be authorized to participate in the activities specified in this article only on the following conditions:

- (a) they must be at least 6 years old, without prejudice to paragraph (3) of this article;*
- (b) they may not participate in the activities after 11 p.m.;*
- (c) they must be allowed an interrupted period of rest lasting at least 14 hours between two participations in one of the activities specified in this article;*
- (d) the compensation to which the child is entitled must be paid into a blocked savings account in the child's name.*

(5) Without prejudice to the above provisions, the minister with labour among his responsibilities or his representative may grant exemptions from the age limit specified in paragraph (4) of this article. They shall first consult the minister with the family among his responsibilities, the Factory and Mines Inspectorate, the consulting physician and, where necessary, another doctor appointed for the purpose.

(6) The Director of the Factory and Mines Inspectorate or his representative may, both in connection with the granting of the authorization mentioned in paragraph (5) above and in the course of the activities, arrange for the child to be heard by the psycho-socio-educational personnel of the Factory and Mines Inspectorate, in the presence of the

consulting physician and, where necessary, another doctor appointed for the purpose, together with a psycho-socio-educational officer from the Ministry of National Education and the Ministry of the Family.

(7) On pain of denial or withdrawal of permission, the participation of children in the activities specified in paragraph (1) of this article must not involve any commercial exploitation of the children, or any danger or risk for the children, must not jeopardize their education or training, and must not harm or be detrimental to their health or physical, psychological, mental, spiritual, moral or social development.

On pain of denial or withdrawal of permission, the participation of children in the activities in question must not adversely affect their regular school attendance, their participation in vocational guidance or training programmes approved and supervised by the competent authorities or their ability to benefit from the instruction received. ”

The Act of 23 March 2001, articles 17 to 22 and 25 to 27, also regulates, equally strictly, the working hours of adolescents who after their compulsory education (age 15) do not continue with their studies but go straight into the world of work. As for articles 23 and 24, they establish the rest periods and breaks for young workers.

234. The law on education leave (see paragraph 621 of the initial report), introduced by the Legislature (Act of 4 October 1973) to promote the organization of recreational, artistic and cultural activities for children, has not been changed. The service which administers this special leave has an unrestricted budget which takes no account of the financial year.

235. Similarly, the Act of 27 February 1984 creating the National Youth Service and establishing its tasks mentioned in paragraph 622 of the initial report has not been amended since.

236. On the other hand, following the appearance of the initial report in July 1996, in December of that year the Ministry of Youth published the “Policy Guidelines of the Ministry of Youth”. In this document, the Ministry of Youth set out the course it intended to follow in its global policy on behalf of Luxembourg youth and the objectives of that policy:

- the participation of young people in society;
- equality of opportunity for all young people;
- the promotion of fundamental values such as democracy, solidarity and tolerance.

To achieve these objectives, it proposed to give priority to the following actions:

- the promotion of social integration and the participation of all young people in society;
- support for youth organizations that create a social space favouring the participation of young people in the life of the city;

- active coordination and cooperation among government bodies and youth organizations, particularly in the provision of information and leadership for young people, the training of leaders and prevention;
- the decentralization of youth policy through the development of the Commune Youth Plan;
- regional leadership and, in cooperation with the communes and youth organizations, promotion of the network of meeting, information and activity centres for young people;
- the development of infrastructure for young people such as residential centres, young people's housing and youth clubs.

In order to realize these objectives and intentions, four action plans have been drawn up and approved by the Youth Council. These action plans, which will be publicly debated in various "youth forums" before final adoption as a basis for implementation, are as follows:

1. Participation of young people, appeared 1 February 1997.
2. Communication with young people, appeared 4 July 1997.
3. Commune Youth Plan, appeared 10 December 1997.
4. Youth work - voluntary work/partnership, appeared in December 1998.

To a large extent, the preparation of these various action plans is based on the general principles laid down in the Convention on the Rights of the Child, in particular in articles 2 (non-discrimination), 3 (best interests of the child) and 12 (respect for the views of the child) mentioned in the tenth paragraph of the concluding observations of the Committee on the Rights of the Child (Doc. CRC/C15/add. 92). These action plans and their implementation are also a response to other provisions of the Convention on the Rights of the Child, in particular articles 13 (freedom of expression), 15 (freedom of association), 17 (access to appropriate information) and 29 (objectives of education).

237. At the informal meeting of the youth ministers of the countries members of the Council of Europe in May 1995, Luxembourg indicated its approval of a Finnish proposal to proceed, by country, with a series of studies of youth policies. In this connection, our Government had independent experts prepare a National Report on Luxembourg's Youth, in which the "Guidelines" and various action plans and their applications were described and analyzed. This report is being evaluated by a committee of international experts commissioned by the Council of Europe.

238. Naturally, *the guidelines for a youth policy and various action plans*, elaborated by the Ministry in consultation with non-governmental organizations and progressively implemented since 1997, have had repercussions on the institutions and the forms of leisure, recreational, cultural and artistic activity for children.

2. Institutions and forms of leisure activity for children

239. All the bodies mentioned in paragraphs 624 to 633 of the initial report have continued their efforts to facilitate access for children and young people to leisure, cultural and artistic activities that meet their needs and expectations. Some have seen a significant increase in the number of participants. Thus, during 2000, the residential centres (paragraph 624 (b)) accommodated 15,000 participants for activities supervised by teachers and leaders of the National Youth Service, whereas in 1994 the corresponding figure was 10,000. Similarly, the National Information and Exchanges Centre for Young People (CNIEJ) recorded 11,282 requests for information in 2000 as compared with 6,885 in 1994. Moreover, it should be noted that, since 1996, various new institutions have come into being:

(a) **Youth House**, envisaged in the governmental declaration of 1999, became a reality in 2000. The grouping of the secretariats of a dozen national organizations within the same building facilitates contacts and makes it possible to generate, with respect to youth policy, interesting synergies between the various stakeholders. Thus, the following have all been brought together at the same address: the Mediation Centre, the National Information and Exchanges Centre for Young People (CNIEJ), the General Conference of Luxembourg Youth (CGJL), the “Daachverband vun de Lëtzebuerger Jugendklibb” (Luxembourg Federation of Young People’s Clubs), the Centre for Studies on the Situation of Young People in Europe (CESIJE), Luxembourg Youth Hostel Headquarters (CAJL), the National Youth Service with its Legal and Social Information Service, the Centre Regional Coordination Service and the National Agency for the Community Youth Programme. Located across from the central station, through which thousands of students from a dozen Luxembourg city high schools pass daily, Youth House also makes it easier for young people to access information inasmuch as the reception desk of the Young People’s Information Centre is located in premises on the ground floor.

(b) **Meeting, Information and Activity Centres for Young People**, commonly known as “**youth centres**” (paragraph 624 of the initial report). Whereas in 1996 Luxembourg had 14 local centres of this type in its cities and communes, since 2000 there have been 21. Moreover, two regional centres cover the territory of several communes. The operation of all these centres is underwritten by agreements between the managing non-profit organizations, the communes concerned and the State based on the pedagogical and educational projects which the associations propose each year.

(c) **Centre for Studies on the Situation of Young People in Europe (CESIJE)**, a non-profit organization. In December 1998 the CESIJE signed an agreement with the Ministry of the Family, Social Solidarity and Youth. The organization’s main objectives are:

(1) *the creation in Luxembourg of an observatory to monitor the situation of young people in Europe by:*

- establishing a centre for documentation on European youth studies and research;
- analyzing and evaluating the statistics and data currently available on the situation of young people in Europe;
- making a comparative evaluation of European studies of the living conditions of young people and their socialization.

(2) *the promotion and coordination of research projects and studies on the situation of young people in Europe by:*

- maintaining a constant dialogue with the large European and international institutions, public and private, that take a close interest in the situation of young people;
- assisting the political and administrative decision-makers with the formulation of projects and research;
- organizing seminars and one-day conferences for researchers and political and private decision-makers in order to improve understanding of the processes of socialization of young people in a *Grande Europe*;

(3) *research in the social sciences, in particular field studies and evaluation of educational projects in the area of youth policy and, inter alia, the launching of projects to study the situation of young people in Luxembourg and the region;*

(4) *to do everything directly or indirectly related to the achievement of its objectives. In particular, it may assist with any activity similar in nature to its objectives.*

It is easy to understand the importance of the work being done by the CESIJE, not only for the Luxembourg Government but also for all the other partners with which it works. It enables all these bodies to adapt their youth policies regularly to the real needs of young people. Thus, since its creation, the CESIJE has carried out or participated in the following surveys, studies and research projects:

- In 1998, survey within the context of the Commune Youth Plan.
- In 1998, the CESIJE also participated in a survey on high school students and the cinema proposed and coordinated by the Grinzane Cavour organization and involving 1,000 Luxembourg high school students.
- Youth and Well-being survey (HBSC Study). In 1999, the CESIJE represented the Ministry on this working group headed by the Ministry of Health.
- In 1999, the CESIJE also collaborated with the National Youth Service on the evaluation of youth centres.
- In 2000, the CESIJE was the Luxembourg partner in the Grinzane 2000 survey “Young people and music”, a survey carried out in six European capitals of young people’s behaviour in relation to music. The results will be published in 2001.
- In 2000, an outside expert, working together with the CESIJE and the Ministry of Youth, evaluated the training for National Youth Service (SNJ) leisure organizers and their assistants. The final report was submitted to the SNJ at the beginning of 2001.

- In 2001, a qualitative study of the voluntary work done by young people (at the request of the Ministry of the Family, Social Solidarity and Youth).

240. **New developments since the initial report**

(a) **Infobus.** In paragraph 624 of the initial report there was mention of a plan to create a “mobile information unit” to seek out young people and support their activities. The Infobus has been operational since July 1997. Specially fitted out, it accommodates high-performance audio-visual and multimedia equipment: video, computerized screening, scanner, printer and 8 computers for organizing “initiation to the Internet” training sessions and Internet searches. Since the Infobus came into service, it has been used not only for actions organized by the Youth Information Centre and the National Youth Service but also in collaboration and partnership with the youth centres, youth clubs, sports and cultural associations, communes and schools.

(b) **Commune Information Point (PIC).** The PIC project was conceived in 1998 and took concrete shape in 1999. The PIC is a cooperative project which brings together the manager of a youth centre, the competent commune, the Ministry of Youth, the National Youth service and the National Information and Exchanges Centre for Young People. It has two objectives:

- To create an information point to facilitate access to information at local and commune level and enable everyone, children, young people and adults, to obtain general information through a personalized service. This public information point provides access to the Internet, as well as to all national and local news, and is a useful tool for those who do not know how or are unable to find their bearings in an information society that is becoming increasingly complex and global.
- To create, within the context of employment measures, useful and interesting CAT (temporary auxiliary contract) jobs accompanied by specific training and supervision. Thus, the project as such performs an important educative and integrating function for the young job-seeker. At the time of preparation of this report, 13 communes had such a service.

(c) **Commune Youth Plan.** The Commune Youth Plan is a working tool that the Ministry is placing at the disposal of Luxembourg communes within the context of the implementation of its “Participation of Young People” action plan. This tool has two purposes: to enable the communes to pursue a rationally planned youth policy and, as far as possible, to include the young people themselves in the process. Since the Commune Youth Plan appeared in 1997, 13 communes, in collaboration with the Ministry and the CESIJE, have developed projects enabling young people to participate in the decision-making process in relation to local youth policy.

3. **Measures taken by the Ministry of Culture, Higher Education and Research**

241. The measures taken by the Ministry of Culture, Higher Education and Research in fields particularly relevant to the development of the child are listed below:

- The purpose of the Act of 28 April 1998 harmonizing musical education in the commune sector is to stimulate, develop and cultivate in young people knowledge of and a taste for music to enable them to participate in musical life. Moreover, the Act is intended to provide young people with specialized training in the various musical disciplines to enable them to pursue advanced music studies at higher or university level. This law, together with the related implementing regulations, has made possible a more homogeneous musical education at commune level while imposing conditions on the curriculum and the qualifications of the teachers. Before this law came into effect, the commune administrations had sole responsibility for the organization of musical education. It should be pointed out that the funding of musical education is one of the most important items in the budget of the Ministry of Culture, Higher Education and Research.
- The Act of 30 July 1999 concerning, in particular, the promotion of artistic creation introduced grants for artistic creation, further training and retraining. Thus, grants may be awarded to established artists but also to the young and not so young who have not made artistic creation a principal activity.
- The Ministry of Culture, Higher Education and Research manages and funds the activities of the *Bibliobus*. Among other things, this service enables young people throughout the country to have closer and easier contact with books.
- The Ministry of Culture, Higher Education and Research manages and funds a decentralized cultural encounter and activity centre whose aim is to make people, and especially young people, aware of the differences and similarities between different cultures through activities involving expression.
- Most State cultural institutes, which are under the authority of the Ministry of Culture, Higher Education and Research, offer educational services and/or programmes. Thus, the National Museum of History and Art offers guided visits specially designed for school classes, as well as children's workshops. The National Natural History Museum also offers a range of educational activities (activity and demonstration workshops). The activities of the *Panda-Club*, an agreement non-profit organization, are entirely aimed at young people. They involve making young people aware of the natural heritage through highly diversified activities. In 2000, the club organized 286 activities with 5,343 participants. Another non-profit organization with an agreement with the Ministry of Culture, Higher Education and Research, namely, the *Casino Luxembourg - Contemporary Art Forum*, regularly organizes workshop-visits for children to enable them to discover modern art through play.

VIII. SPECIAL PROTECTION MEASURES (arts. 22, 38, 39, 40, 37 (b), (c) and (d), 32 to 36)

A. Children in emergency situations

1. Refugee children

(a) The situation of refugee children

242. The Kosovo crisis showed that the basic provisions of the Convention relating to the Status of Refugees, signed at Geneva on 28 July 1951 and approved by Luxembourg by Act of 22 May 1953, and the national procedure laid down in the Act of 3 April 1996 on the examination of asylum applications were ill-suited to enabling the authorities to deal in a reasonable time with the flood of asylum applications produced by a mass influx of refugees.

Encouraged by the Office of the United Nations High Commissioner for Refugees (cf. its opinion of 13 September 1999, parl. doc. No. 4572/5), the legislature set up two supplementary systems under the Act of 18 March 2000 creating a temporary protection regime and amending the amended Act of 3 April 1996 creating a procedure for the examination of asylum applications, namely:

- the establishment of a temporary protection regime to enable the authorities to regulate quickly, in the well-defined case of a mass influx of asylum seekers, the legal and administrative situation of the latter during their stay on Luxembourg territory. It should be noted that the Act of 18 March 2000 instituting this regime provides for the beneficiaries to request family reunification on behalf of their spouse and minor children, under cover of the same regime;
- the introduction of a measure concerning the aliens bureau enabling the Minister of Justice to grant tolerance status to asylum seekers who cannot be deported for practical reasons.

243. The provision of assistance to refugees in general and more particularly to refugee children is the responsibility of the Government's Commissariat for Foreigners which collaborates closely with the public and private social services.

The reception centres for the temporary accommodation of refugees and asylum seekers are managed either directly by the Commissariat or, under a cooperation agreement, by the Caritas Federation or the Luxembourg Red Cross. In principle, refugee children are accommodated in the centres with their families. Unaccompanied minor children require the intervention, through the Commissariat, of the authorities responsible for the protection of young people and, if necessary, of the guardianship and youth courts. If possible, the children are placed with members of their family residing in Luxembourg. Delegation of parental authority or appointment of a guardian may be ordered if necessary, and in particular at the request of the Public Prosecutor's Office.

There is a network of specific social assistance services for refugee children designed to facilitate their entry into the country's trilingual school system from the primary level.

Since 1999 the Ministry of National Education, Vocational Training and Sport had had in place a team of intercultural mediators. After initial training, two male and two female Serbo-Croat or Albanian speakers visit primary and secondary schools to promote dialogue between school, children and parents. They actively assist in solving problems concerning the integration of children and young people from South-East Europe into school and extracurricular activities.

Outside school hours, the mediators participate in activities organized in homes and reception centres and provide the children with regular academic support. In addition, volunteers from private associations also provide extracurricular and cultural training for these children and young people. This training often takes place in the reception centres for asylum seekers themselves, in close collaboration with the educational and social team of the Commissariat for Foreigners.

Obviously, the children of refugee and asylum-seeker families can participate on an equal footing with children born in Luxembourg in the leisure activities offered during the summer holidays by Luxembourg organizers (communes, National Youth Service, Luxembourg Red Cross, Caritas, Foyer de la Femme, etc.).

At the time of preparation of this report, the social assistance provided by the State to asylum seekers, which includes material assistance, is still being set by a decision of the Government in Council. This situation will shortly change. A proposed Grand-Ducal Regulation clearly defining the social rights of asylum seekers is under discussion.

Aware of the post-war situation in Kosovo and the fact that it is difficult and perhaps impossible for families from the ethnic minorities of the region to return in dignity, the Luxembourg Government has offered 1,251 people, including 587 children, the opportunity to settle in Luxembourg.

Without having to give up their political asylum proceedings, those concerned, provided they meet the requirements, can obtain an ordinary residence permit for the Grand Duchy of Luxembourg. For families, it is essentially a question of possessing a valid identity document, finding long-term employment (with certain exceptions) and not having committed an offence against public order in Luxembourg.

Luxembourg intends to continue to demonstrate its readiness to participate in international cooperation to solve refugee problems.

It should be noted that a policy of financial and material aid for those wishing to return to their country has been pursued by the Luxembourg authorities since 1999.

With financial support from the Ministry of Cooperation, two Luxembourg NGOs are helping these families to organize resettlement projects. With offices in the Serbian Sandjak and Montenegro regions, they ensure on-the-spot supervision of the project.

244. The emergency situation triggered by the arrival of a flood of asylum seekers has faced the Ministry of National Education, Vocational Training and Sport with fresh challenges which call for new approaches and increased investment in human and material resources (schooling for approximately 100 children or young people per age group).

An interministerial working group on asylum seekers and refugees, which includes representatives of the Government's Commissariat for Foreigners and the Ministries of the Interior, Justice, Labour and National Education, has drawn up an information document concerning the reception of asylum seekers. This document has been distributed to the communes, secondary school principals, primary school inspectors and teachers of induction classes.

In April 1999, various measures were approved by the Government Council to facilitate the reception and school entry of the children of asylum seekers:

- Coordination of school reception at national level and the appointment by the Ministry of National Education of a coordinator on a fixed-term contract.
- Appointment of “intercultural mediators”, human resources of the countries of origin of the asylum seekers, to provide ad hoc assistance for the teaching staff, as well as for pupils, parents and communes. The mediators intervene in the schools at the request of the teaching staff or communes.
- Payment of the related expenses of the communes to compensate them for the extra costs (school enrolment, infrastructure, cost of auxiliary staff, support courses, school transport, canteens, extracurricular activities and supervision outside school hours, etc.) during school years 1999/2000 and 2000/2001.

During the public debate on asylum policy (Chamber of Deputies, 22 March 2001) a motion was adopted in which the Chamber of Deputies invited the Government, in particular:

- to provide for specific training for asylum seekers to facilitate their eventual return to their countries of origin;
- to offer adolescent asylum seekers the opportunity to follow a vocational training course.

(b) Education of child asylum seekers

In Luxembourg, the education of the children of asylum seekers is compulsory in the same way as that of other children and adolescents (whatever their status: application for refugee status being processed or subject to appeal, application rejected but repatriation temporarily impossible).

Pre-school and primary education: The children are enrolled either in (fairly large) induction classes or in ordinary classes.

Post-primary education: Access to general secondary education and the upper levels of technical education is only rarely possible because of the high linguistic standards that must be met (in German, French and English).

In technical secondary education, there are various possibilities: preparatory regime classes and special language regime classes.

Up to now, from the tenth year onward, asylum seekers have not been entitled to follow (continue with) vocational regime studies requiring apprenticeship contracts (since an apprenticeship contract presupposes a work permit), although, from the standpoint of language requirements, it is the most accessible regime. Further to a motion passed by the Chamber of Deputies on 22 March 2001 during the debate on asylum policy, a solution is being sought that would enable young asylum seekers to pursue vocational training.

Further Vocational Training Centres (CNFPC): The Ministry of National Education is organizing various vocational training courses for asylum seekers in the Esch-sur-Alzette and Ettelbruck CNFPCs.

Language Centre: Young people over the age of compulsory education can follow intensive language courses at the Language Centre.

(c) Information and awareness-raising actions

245. An awareness-raising project, cofinanced by the Office of the United Nations High Commissioner for Refugees and intended for post-primary pupils, has been coordinated by the Ministry of National Education, Vocational Training and Sport. The project “Young refugees, young people in Luxembourg: a past - a present - what future?” has been circulated to all secondary and technical secondary schools and the teachers have received training.

Other specific training on the same subject has been organized.

2. Children affected by armed conflicts (art. 38), with particular attention to physical and psychological recovery measures and social reintegration (art. 39)

246. By *Act of 14 August 2000 approving the Rome Statute of the International Criminal Court*, done at Rome on 17 July 1998, Luxembourg approved the Statute of the International Criminal Court, a permanent and independent court with jurisdiction over the most serious crimes of concern to the international community as a whole.

247. Like any other child, the children of refugees are entitled, where physical and psychological recovery measures are concerned, to the assistance of the existing medical and psychological institutions.

A number of young asylum seekers, minors without their parents or not accompanied by a legal guardian, are placed in the care of persons working for the Caritas Refugees Service or a close relative.

B. Children in conflict with the law

1. Administration of juvenile justice (art. 40)

248. The youth court judge and the youth court, respectively, have jurisdiction over children in conflict with the law. There is special legislation, the amended Protection of Young People Act of 10 August 1992, for dealing with these minors.

The Grand Duchy does not have a criminal law for minors. Both minors “in need of protection” and minors in conflict with the law fall within the scope of the same Protection of Young People Act. Appeals are brought before youth court magistrates.

249. In its declaration of August 1999, the Government undertook to reform the amended Protection of Young People Act of 10 August 1992. A special “Young people in distress” committee was established within the Chamber of Deputies. An interministerial working group has just been set up by the ministers with justice and the family among their responsibilities. The first stage will involve an in-depth analysis of the problems of young people in distress.

250. Moreover, special attention will be paid to mediation, with children and young people receiving support in cases of conflict, and to prevention, with every means of protecting young people from all forms of dependency being deployed.

2. Treatment of children deprived of liberty, including children subjected to any form of detention, imprisonment or placement in a supervised institution (art. 37 (b), (c) and (d))

a) Placement in a State re-education establishment (State Socio-Educational Centres)

251. This question was dealt with in paragraphs 656 to 663 of the initial report.

It should be recalled that in the State Socio-Educational Centres solitary confinement is defined by article 11 of the Grand-Ducal Regulation of 9 September 1992 dealing with security and discipline in the centres.

Temporary solitary confinement means that the inmate is kept day and night in a single-occupancy cell. It may involve the suspension of training, work, recreational and joint activities, and the use of personal effects.

This measure can be applied only for serious reasons. Within a time limit of 24 hours following the imposition of the measure, a doctor must examine the minor in order to establish whether he is capable of enduring it. In all cases, the doctor will draw up a medical certificate which he submits to the director or his deputy. A doctor visits inmates subjected to temporary solitary confinement at least twice a week.

The duration of a temporary solitary confinement measure may not exceed 20 consecutive days. The measure is suspended if the doctor reports that its continuation may impair the minor’s physical or mental health. Any such measure whose duration exceeds 10 consecutive days must

be reviewed by the director in consultation with the doctor, the magistrate who made the placement order, and the chairman of the supervision and coordination committee.

252. Since the report on the rights of the child in the Grand Duchy of Luxembourg was drafted in December 1996, the following changes have been made to the solitary confinement measure:

- The former solitary confinement cells have been abolished and a new SC block comprising 6 solitary confinement rooms, a shower room and a common room has been built to secure standards. Each room is equipped with a wash basin, a toilet, underfloor heating, air-conditioning and an internal telephone which the young person can use to contact the service instructor at any time.
- The duration of solitary confinement measures is fixed in advance. Solitary confinement generally for a period of 48 hours is the measure used to punish drug abuse or trafficking, running away or physical violence.
- Every young person entering the SC block receives a fact sheet concerning his temporary solitary confinement measure indicating his first and last names, his date of birth, the date and precise time of commencement of the measure, the duration of solitary confinement, the reason for the punishment and the name of the official ordering the measure. Moreover, the fact sheet also indicates the names and telephone numbers of the persons authorized to hear an appeal: the youth court judge and the chairman of the supervision and coordination committee. This fact sheet is placed in the young person's file.
- Since the start of school year 2000/2001, a teacher from the Socio-Educational Teaching Institute at Dreiborn has been assigned to provide instruction for young persons in solitary confinement.
- During the year 2000, 66 girls spent time in a CSEE. During this period the SC block was occupied for 264 days, which corresponds to an average of 0.72 girls per day in solitary confinement. Over the same period, 88 boys spent time in a CSEE and the SC block was occupied for 477 days, which corresponds to an average of 1.3 boys per day in solitary confinement.
- The inmates in solitary confinement in the SC block are seen either by the members of the management committee or by the personnel of the psycho-social service and regularly by the teaching staff who often take meals with them.

b) Confinement in a correctional institution and orders of temporary custody in a prison

253. This question was dealt with in paragraphs 664 to 668 of the initial report.

254. In its declaration of August 1999, the Government recalled its commitment to building a secure unit for minor children within the framework of the State Socio-Educational Centres (CSEE) and providing the socio-educational centres at Dreiborn and Schrassig with the qualified personnel they need to carry out their mission under favourable conditions.

As soon as the secure unit is ready, the practice of occasionally placing minors in the State Penitentiary (CPL), as followed at the time of preparation of this report, will cease.

255. The organization of the psycho-social supervision of minors placed in the CPL is overseen by a CPL psychologist.

Generally speaking, the team responsible for the treatment of minors placed in the CPL has been strengthened since 1998, while at the same time the number of minors placed has fallen.

The psycho-socio-educational supervision of minors in the CPL is now organized as follows:

Educational activities

A teacher employed by the penitentiary administration supervises the minors on a daily basis. He organizes and directs their communal activity and leisure sessions for 16 hours a week. He also prepares reports on the behaviour of the minors.

In collaboration with the Central Social Assistance Service (SCAS), the teacher provides educational supervision for the minors placed in the CPL. An SCAS probation officer visits the CPL weekly to prepare the minors for social reintegration.

The social officers of the socio-educational centres and homes in which the minors stayed before being placed in the CPL provide for their continuing supervision.

Psychological assistance

Where necessary, minors with psychological problems are seen individually by the prison psychologist. A psychiatrist may be brought in to provide psychiatric treatment.

Moral assistance

The chaplain provides moral support for minors who request it. Minors may, if they so desire, receive visits from priests of their faith.

Education

Seven teachers assigned to the penitentiary administration by the Minister of National Education and Vocational Training give courses for the minors.

On average, the minors receive 24 hours of instruction a week.

Physical exercise

Sports monitors organize and direct the minors' physical exercise sessions and sports activities. Six hours a week are set aside for physical exercise.

Medical treatment

Sick minors receive the necessary care and pharmaceutical products as prescribed by the prison doctor.

In principle, sick minors are treated in the CPL infirmary. When their condition so requires, on doctor's orders, they are transferred to a hospital.

256. A service note or "Dienstvorschrift" of the prison (CPL) administration dated 12 January 200 stipulates that:

- The strict separation of minor from adult detainees is a matter of principle.
- Every minor shall be placed in an individual cell.
- Every minor has the right to a lawyer. The teacher shall ensure that an application form for legal assistance is completed by each minor detainee and forwarded to the chairman of the competent bar association.
- The minor must be informed about the prison rules.
- All the mail of a minor must be submitted to the youth court judge, except for correspondence between the minor and his counsel and correspondence addressed by the minor to the Head of State, the Government, the Chamber of Deputies, the Minister of Justice or the Prosecutor General, which shall remain sealed.
- Visiting permits are issued by the youth court judge. Visits will always take place in a separate room. There is no limit on the number of hours for visits.
- Subject to prior authorization by the youth court judge, the minor has the right, during his leisure hours, to have two 10-minute telephone conversations a week with three persons of his choice. This restriction does not apply to telephone conversations with his lawyers or social workers.
- The prison administration decides whether personal objects (e.g. wrist watch, decorative chain, etc.) should be returned to the minor.
- Purchases on behalf of the minor may be made to order, up to a maximum of 2,500 LUF per week.
- If a minor wishes to send money to a member of his family, he must lodge a corresponding request with the prison administration.
- The minor has the right to have a private TV set/play-station or one provided by the prison administration and use it during his leisure time after 5 p.m. (except during the night from 10.30 p.m. to 7 a.m.) provided that he participates in the prescribed collective activities (school, sports, educational activities). For this he must lodge a corresponding request with the prison administration.
- During leisure time, 2 or 3 young people may get together in a cell.
- Unless the youth court judge rules otherwise, after examination by a doctor, minors entering the CPL may participate immediately in group activities (sport, school, educational activities, walking in the courtyard, leisure activities).

- To benefit from rewards the minor must participate actively in the prescribed collective activities.
- The disciplinary rules require that the minor be dressed when breakfast is served and that his cell be tidy, on pain of being excluded from sport and, if his cell is untidy, from leisure activities on the day in question. In these cases a report is made to the administration.
- If the minor misbehaves during a collective activity, his misbehaviour will be reported to the administration and the minor will be excluded from participating in leisure activities for a period to be determined by the administration.
- Minors who have participated in the week's prescribed activities and have behaved well will receive, as a reward, authorization to engage in sports on one Saturday in every four from 1.15 to 3.30 p.m., under the supervision of the teacher and to visit the common room every Wednesday during leisure time (5.30 to 7.30 p.m.).

3. Penalties that can be imposed on minors, with particular reference to capital punishment and life imprisonment (art. 37 (a))

257. There are no penalties that can be imposed on minors. The prosecution service, within the context of its discretion regarding the advisability of prosecution, may arrange for mediation, placement in the care of Médecins sans Frontières-Solidarité Jeunes, etc. The court takes "measures".

For minors who are at least 16 years of age at the time of committing an offence, the youth court may decide that - considering the seriousness of the facts - it is not equipped to deal with this kind of offence at youth protection level. In this case the file is returned to the prosecution service which can then proceed "in accordance with the usual powers and procedures". The case is then judged in the same way as a case against an adult except that being under age constitutes mitigating circumstances. Capital punishment no longer exists and, in view of the circumstances, there will be no sentence of life imprisonment.

4. Physical and psychological recovery and social reintegration (art. 39)

258. Physical and psychological recovery and social reintegration were dealt with in paragraphs 669 to 691 of the initial report.

In this context, the State Socio-Educational Centres (CSEE) collaborate closely with Médecins sans Frontières-Solidarité Jeunes, a service which has signed an agreement with the Ministry of Health. This service, inaugurated in 1998, aims to provide psycho-social and therapeutic assistance for minors, their families and the institutions involved when the young people are abusing psychotropic substances. The objective of the mobile team of four qualified psychologists is, on the one hand, to make their skills available for the purposes of psycho-social, therapeutic and even institutional intervention on behalf of young people, their families and the staff of permanent institutions and, on the other, to establish and coordinate intervention through networking. The team is at the disposal of the young person, it must leave room for the expression of his personality and hear what he has to say while assuring him that

the professionals around him are all ready to support him under a system that extends beyond the boundaries of the institution. In its 1999 progress report MSF-Solidarité Jeunes noted that the CSEEs had referred 13 young people to its services, which represented 13.1% of their clientele. During that year, there were 21 contacts with the CSEEs directly related with a situation, which was equivalent to 21.2% of the total number of situations. Regular meetings have taken place between the psycho-social service of the CSEEs and MSF-Solidarité Jeunes.

Young people from the CSEEs are participating in a pedagogical project based on adventure and the prevention of drug addiction in collaboration with the Centre Marienthal, the Drug Addiction Prevention Centre and various institutions at Bitburg and Prüm in Germany. This project is aimed at the prevention of drug addiction and the social reintegration of young people in difficulties. By participating in a philanthropic enterprise the young people experience personal discovery and get to know themselves. At the same time, they learn to take responsibility within the context of a specific project. This enables them to learn self-respect and respect for other people. Moreover, the work earns them recognition and reward on the part of society. The project encourages them to improve their self-image and boosts their self-confidence. From 5 to 6 young people regularly work on the Centre Marienthal's adventure sites. Two groups of young people helped to clean up the beaches in Vendée. More recently, a group has made a trip on board a barge in the Netherlands.

The International Award is another project in which CSEE young people participate. This is an offshoot from the Duke of Edinburgh's Award devised in 1956 to encourage and motivate British youngsters to become involved in a balanced programme of developmental and voluntary activities. The unique content of the programme makes it easily adaptable to different cultures and types of society. The basic structure is the same in all the countries of the world. The award is made at three levels each of which requires the carrying out of four types of activity: voluntary service, adventurous journey, talents and skills, and physical recreation. In 2000, three young people from CSEEs received the first-level award.

At the time of preparation of this report, two members of the staff were assigned part-time to supporting the young people in approaches to the Employment Administration and supervising their entry into the job market. Young people from CSEEs are mostly employed under a temporary auxiliary contract (CAT) by job-providing enterprises subsidized by various ministries, such as Objectif Plein Emploi, Perspective Emploi, the Vélo Project, the National Centre for Continuing Vocational Training, Colabor, and Interaction Faubourg. These entities offer a regular job but at the same time the young people benefit from training in a specific field and they are supervised by teachers and social workers who undertake to provide them with support on the job market at the end of their CAT contract.

Under article 23 of the Ministerial Regulation of 20 May 1993 concerning the internal organization of the State Socio-Educational Centres, the mission of the Psycho-Social Service which at the time of preparation of this report consisted of three psychologists, a social worker and a CAT, is to provide individual and collective supervision services on behalf of the staff, to produce medico-social and psycho-pedagogical profiles of the inmates and design their socio-educational and psycho-therapeutic projects, to organize various therapy sessions with the inmates, to participate in social counselling missions outside the institution on behalf of the inmates, former inmates, their families of origin or their foster families, to participate in exchange and collaboration contacts between the centres and other institutions, and to contribute to the institutional analysis of the centres. Within the context of this mission, the

Psycho-Social Service collaborates with numerous outside therapists and psychiatrists and with homes, therapeutic centres and psychiatric hospitals in Luxembourg and abroad, as well as with centres that help young people in crisis to move toward greater independence.

C. Children suffering exploitation, including their physical and psychological recovery and social reintegration

1. Economic exploitation, in particular child labour (art. 32)

(a) Ratification of the Convention (No. 182) concerning the Prohibition and Immediate Action for the Elimination of the Worst Forms of Child Labour

259. In 1999, the Luxembourg Government gave notice of its firm intention to be among the first Member States to ratify Convention No. 182, which it regards as one of the basic instruments in the struggle to eradicate child labour throughout the world.

260. In accordance with article 19 of the Constitution of the International Labour Organization, the text of the Convention and that of the Recommendation (No. 190) concerning the Prohibition and Immediate Action for the Elimination of the Worst Forms of Child Labour were submitted to the Chamber of Deputies with the proposal that the Convention (No. 182) be added to the list of ILO conventions whose approval by Parliament was the subject of a bill tabled in the Chamber of Deputies.

261. The Convention concerning the Prohibition and Immediate Action for the Elimination of the Worst Forms of Child Labour was approved by the Act of 22 December 2000 approving International Labour Conventions Nos. 111, 142, 150, 151, 155, 158, 159, 175, and 182.

(b) Act of 12 February 1999 concerning the national plan of action for the promotion of employment

262. The Act of 12 February 1999 concerning the implementation of the national plan of action for the promotion of employment 1998 also includes provisions relating to young workers. To offer a fresh start for young people who have been on the unemployment register for at least one month, this Act introduced the temporary auxiliary contract and the work placement scheme which focus on the training of young job seekers and assign them hiring priority. The State pays employers who provide work for young people under one of these measures contributions which are then topped up if the young people employed are members of the underrepresented sex.

(c) Protection of Young Workers Act of 23 March 2001

263. The new Protection of Young Workers Act transposes into Luxembourg law the European Council Directive 94/33 (EC) on the protection of young people at work of 22 June 1994.

Moreover, it completely revises the Protection of Children and Young Workers Act of 28 October 1969.

This revision of the old act became necessary since the text had undergone substantial amendment and some of its provisions had to be adapted to the Act of 12 February 1999 concerning the implementation of the national plan of action for the promotion of employment.

Similarly, certain provisions of the old text had to be adapted to the content of the International Convention on the Rights of the Child adopted by the United Nations General Assembly on 20 November 1989 and ratified by Act of 20 December 1993.

An examination of the new text shows that the following elements, in particular, merit attention:

(1) In the context of the provisions on the prohibition of child labour, the new text provides for the regulation of the individual authorizations that may be granted to allow children to participate in cultural, artistic, sports, advertising and fashion sector activities. The text is designed to ensure effective application and avoid its remaining, like its predecessor, a dead letter because of its partially unrealistic content. Thus, by adapting the conditions for the granting of such authorizations to actual reality the text specifically strengthens the protection afforded to children and introduces effective controls.

(2) Employers wishing to engage young people aged from 15 to 18 are now obliged to carry out a risk assessment. Where this assessment shows that there is a risk, the employer has not only a duty to inform vis-à-vis the young people and their legal representatives but more especially an obligation regularly to provide the young people with free occupational health service assessments, in addition to the ordinary recruitment and periodic examinations. Thus, it is now forbidden to employ adolescents to do certain jobs if the risk assessment reveals a specific threat to their health, safety or development, in particular because of their inexperience, lack of awareness of the risks or immaturity.

(3) Attention should be drawn to the changes made to the text with respect to the working conditions of adolescents in order to adapt it to the amendments to the legislation on working hours made by the Act of 12 February 1999 concerning the implementation of the national plan of action for the promotion of employment. In this context, mention should be made, in particular, of the provisions relating to the work organization plan (POT) contained in the new Act.

(4) As regards the regulation of working hours, particular reference should be made to the provision concerning the time that can be spent by adolescents on ancillary activities unrelated to teaching or training and carried on outside and in addition to the school and workplace activities required under a combined scheme. Thus, the text introduces a strict limitation on the period of time which a young person may spend working and being trained or taught. In fact, many young people work, often for long hours, in addition to going to school, in order to earn pocket money or, less frequently, to help pay for their studies. The text limits and regulates this situation so as to bring Luxembourg national law into conformity with the Directive and prevent certain possible abuses, while allowing the adolescents to organize their ancillary activities freely and with a certain flexibility. Thus, the adolescent may not work for more than eight hours a day or more than forty hours a week, training and ancillary activities included. In this connection, it should, however, be pointed out that if certain young people under 18 actually had to work more than the number of hours allowed under the new act to

finance their studies, it would be necessary to consider other means of funding more appropriate to the Luxembourg social model than child labour.

(5) Finally, it should be noted that henceforth the authority for all decisions, exemptions and authorizations or refusals under the provisions of the Protection of Young Workers Act will be held by the minister with labour among his responsibilities. This corresponds to the procedure generally followed within the framework of the labour legislation. The role of advisory and monitoring body will be left to the Factory and Mines Inspectorate and the Minister of Labour will request the opinion of various other bodies, including the occupational health services and the Ministries of National Education and the Family.

2. Drug abuse (art. 33)

264. Luxembourg amended its legislation on the sale of medicinal substances and the fight against drug addiction by Act of 27 April 2001. One of the main objectives of the new Act is to establish a legal framework and to develop various activities carried out within the context of the treatment of drug addicts and the reduction of the social and health risks associated with drug addiction (distribution of syringes for prophylactic purposes, substitution treatment programmes, etc.).

Moreover, the criminal penalties for drug use have been reduced. However, the new Act contains special provisions designed to protect the minor against the bad example of other users which might encourage drug consumption. Thus, severer penalties are reserved for persons who have illicitly used drugs in front of one or more minors or with a minor. The penalties are particularly heavy for staff employed in schools, as teachers or in any other capacity, who use drugs in school and, in general, for anyone who commits a drug trafficking offence in a teaching establishment or a social services centre or in their immediate neighbourhood or in some other place where pupils or students pursue educational, sporting or social activities. If a minor becomes seriously ill or dies, the persons responsible for supplying the drug to the minor will be liable to long terms of imprisonment, including life imprisonment in the event of the death of the minor.

265. Mention should also be made of the valuable work being done by Abridado, a mobile psychological, medical and social intervention group operating in the immediate vicinity of the central station in Luxembourg City. Working from vans, the members of the group take in male and female prostitutes, drug addicts, and homeless people and direct them to the specialized services. The group participates in the methadone and anti-AIDS action programmes.

3. Sexual exploitation and sexual abuse (art. 34)

266. The sexual exploitation and abuse of children were dealt with in paragraphs 722 to 747 of the initial report. In particular, the report dealt with indecent assault, rape and incest, the prostitution or corruption of young people, public decency offences and the use of children in the production of pornographic material.

267. Considering that trafficking in human beings and the sexual exploitation of children also constitute inhuman and degrading treatment and an important and serious form of international

crime, the Act of 31 May 1999 strengthening the measures against trafficking in human beings and the sexual exploitation of children and amending the Criminal Code and the Code of Criminal Procedure stiffened the law on the protection of minors, adapted and supplemented certain provisions of the Criminal Code, and extended the application of Luxembourg law for all sexual offences committed abroad by a Luxembourg national or resident (article 5-1 of the new Code of Criminal Procedure).

Thus, henceforth, article 379 of the Criminal Code makes punishable not only, as in the past, acts of incitement to immorality, prostitution or corruption of young people but also all offending conduct intended to facilitate or encourage the depravation, prostitution or corruption of a minor under the age of 18. Likewise, the above-mentioned Act of 31 May 1999 made punishable the exploitation of a minor under the age of 18 for purposes of prostitution and the production of pornographic performances or materials, as well as trafficking in minors for purposes of exploitation.

Moreover, the Act supplemented, *inter alia*, article 379 bis of the Criminal Code, which punishes, in particular, the hiring, enticement or inducement of a person, even if consenting, with a view to prostitution or immorality, by extending the cases of aggravation of the penalty of imprisonment for which the previous text already provided to cover not only the case in which the victim has been hired, enticed or induced fraudulently or with the aid of violence, threats or abuse of authority or any other means of coercion and that in which the victim has actually been delivered up into prostitution but also the case in which the perpetrator of the offence has exploited a person in an especially vulnerable situation due, in particular, to illegal or provisional administrative status, pregnancy, illness, disability or physical or mental deficiency.

Finally, the same Act introduced a new article into the Criminal Code (article 384) which punishes the possession of paedophilic material involving or depicting minors and increases all the penalties applicable.

268. Sexual harassment, regarded as degrading treatment, is now also punishable under the terms of the *Act of 26 May 2000 concerning protection against sexual harassment in a working environment and amending various other laws*. The legislature has thus displayed its intention effectively to combat sexual harassment, a form of social violence, through national labour legislation.

269. A specialized multidisciplinary intervention unit known as “Info Viol - Sexual Abuse”, an extension of the activities of the “Info Viol” hotline, has been operating since 1 December 1999. This new unit consists of professionals such as doctors, psychologists, psychotherapists, social workers, pedagogues, teachers (graduates) from various associations and services involved in the prevention of sexual abuse and the treatment, ambulatory or otherwise, of victims and their families. The various partner associations network within the context of the project initiated and supported by the Ministry of the Family, Social Solidarity and Youth. The aim is to assist professionals (teachers, educators, health professionals and social workers) who, suspecting the sexual abuse of a child victim, seek advice on how to proceed.

In this context, the ad hoc committee on the rights of the child has published an information note on reporting the suspected sexual abuse of a minor, for the benefit of professionals in the education and social assistance sectors.

270. Finally, it should be recalled that on 6 September 2000, on the occasion of the United Nations Millennium Summit, the Government signed the Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography.

4. Sale, trafficking and abduction of children (art. 35)

271. With regard to this chapter, reference should be made to paragraphs 748 and 749 of the initial report.

Moreover, a draft framework decision dealing specifically with this issue is in the process of being drawn up in the Council of the Union.

D. Children belonging to a minority and indigenous children (art. 30)

272. With respect to this paragraph, reference should be made to paragraphs 242 to 247 (*Refugee children*) of this report.

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Annexes

- Act of 19 July 1997 supplementing the Criminal Code by modifying the definition of the offence of racism and creating the offence of revisionism and other conduct based on illegal discrimination
- Act of 27 July 1997 amending certain provisions of the Civil Code, the Code of Civil Procedure, the Code of Criminal Procedure and the Administration of Justice Act
- STATEC document - Population on 1 January 2000
- Act of 31 May 1999 strengthening the measures against trafficking in human beings and the sexual exploitation of children and amending the Criminal Code and the Code of Criminal Procedure
- Amended Protection of Young People Act of 10 August 1992
- Act of 8 September 1998 governing relations between the State and organizations working in the social, family and therapeutic fields
- Grand-Ducal Regulation of 18 December 1998 implementing articles 1 and 2 of the Act of 8 September 1998 governing relations between the State and organizations working in the social, family and therapeutic fields as regards the governmental accreditation of managers of services for disabled persons
- Grand-Ducal Regulation of 16 April 1999 on the accreditation of managers of reception centres, with accommodation, for children and young adults
- Grand-Ducal Regulation of 8 December 1999 on the accreditation of managers of services for the elderly
- Grand-Ducal Regulation of 14 January 2000 establishing the conditions and formalities for the accreditation of family placement assistance services provided for by the Act of 8 September 1998 governing relations between the State and organizations working in the social, family and therapeutic fields
- Grand-Ducal Regulation of 9 January 2001 implementing articles 1 and 2 of the Act of 8 September 1998 governing relations between the State and organizations working in the social, family and therapeutic fields as regards the governmental accreditation of managers of services for adults, single or with children
- Grand-Ducal Regulation of 29 March 2001 establishing the conditions and formalities for the accreditation of the activity of receiving and accommodating, by day and/or by night, more than three and fewer than eight minors at a time, in the home of the person carrying on the activity, provided for by the Act of 8 September 1998 governing relations between the State and organizations working in the social, family and therapeutic fields
- Grand-Ducal Regulation of 20 December 2001 implementing articles 1 and 2 of the Act of 8 September 1998 governing relations between the State and organizations working in the social, family and therapeutic fields as regards the governmental accreditation of managers of day care facilities for children, without accommodation
- Grand-Ducal Regulation of 28 January 1999 on the accreditation of managers of services for young people

- Grand-Ducal Regulation of 19 March 1999 on the accreditation of managers of services for girls, women and women with children
- Act of 12 February 1999 concerning the implementation of the national plan of action for the promotion of employment 1998
- Protection of Young Workers Act of 23 March 2001
- Act of 28 June 2001 on the burden of proof in cases of discrimination based on sex
- Voluntary Service Act of 28 January 1999
- Act of 24 April 2000:
 - adapting the domestic law to the provisions of the United Nations Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, approved by Act of 31 July 1987;
 - transposing certain recommendations made by the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment;
 - amending certain provisions of the Criminal Code and the Code of Criminal Procedure;
 - amending the amended Extradition of Foreign Criminals Act of 13 March 1870;
 - amending the amended Alien Entry and Residence Act of 28 March 1972;
 - concerning the medical examination of foreigners;
 - concerning the employment of foreign labour.
- Judgement No. 7/99 of the Constitutional Court
- Judgement of the Court of Appeal (guardianship) of 15 March 2000
- Act of 29 April 1999 creating a right to a guaranteed minimum income
- Act of 8 December 2000:
 - concerning the prevention of overindebtedness and introducing a collective debt settlement procedure in cases of overindebtedness;
 - amending Book 1, Title 1, Article 4 of the New Code of Civil Procedure.
- Act of 22 June 2000 concerning State financial assistance for higher education
- Act of 1 August 2001 on the protection of pregnant workers and workers who have recently given birth or are breastfeeding
- Act of 14 April 2002:
 - approving the Hague Convention of 29 May 1993 on Protection of Children and Co-operation in Respect of Intercountry Adoption;
 - amending certain provisions of the new Code of Civil Procedure, and;
 - introducing article 367-2 of the Criminal Code.
- Accessibility of Public Premises Act of 29 March 2001

- Act of 28 April 1998:
 - harmonizing musical education in the commune sector;
 - amending article 5 of the Employment Contract Act of 24 May 1989;
 - amending the amended Civil Service Salaries Act of 22 June 1963.
- Act of 30 July 1999 concerning:
 - the status of the independent artist and the casual show business worker;
 - the promotion of artistic creation.
- Act of 18 March 2000:
 - creating a temporary protection regime;
 - amending the amended Act of 3 April 1996 creating a procedure for the examination of asylum applications.
