



Economic and Social Council

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Committee on Economic, Social and Cultural Rights

Concluding observations on the fourth periodic report of Luxembourg*

1. The Committee considered the fourth periodic report of Luxembourg¹ at its 48th and 50th meetings,² held on 6 and 7 October 2022, and adopted the present concluding observations at its 60th meeting, held on 14 October 2022.

A. Introduction

2. The Committee welcomes the State party's fourth periodic report, notwithstanding the fact that it was submitted with a significant delay. The Committee also welcomes the written responses to the list of issues.³ The Committee appreciates the open and constructive dialogue held with the State party's high-level interministerial delegation.

B. Positive aspects

3. The Committee welcomes the legislative, institutional and policy measures that the State party has taken to strengthen the protection of economic, social and cultural rights in its territory, such as the establishment of the Centre for Equal Treatment in 2006, the adoption of the National Action Plan for the Promotion of the Rights of Lesbian, Gay, Bisexual, Transgender and Intersex Persons in 2018, and the measures referred to in paragraph 27 of its fourth periodic report in relation to equality between women and men, as well as other measures referred to in these concluding observations. The Committee welcomes the ratification by the State party of the Optional Protocol to the International Covenant on Economic, Social and Cultural Rights on 3 February 2015.

C. Principal subjects of concern and recommendations

Domestic application of the Covenant

4. The Committee notes the information provided by the State party on the primacy of international treaties over domestic law, including constitutional law. It regrets, however, that the rights enshrined in the Covenant have never been invoked before, or directly enforced by, the courts of the State party.

5. **The Committee reiterates the recommendation made in its previous concluding observations⁴ that effective measures be taken by the State party to ensure that legal and judicial training takes full account of the justiciability of Covenant rights and**

* Adopted by the Committee at its seventy-second session (26 September–14 October 2022).

¹ [E/C.12/LUX/4](#).

² [E/C.12/2022/SR.48](#) and [E/C.12/2022/SR.50](#).

³ [E/C.12/LUX/RQ/4](#).

⁴ [E/C.12/1/Add.86](#), para. 26.



promotes the use of the Covenant as a source of law in domestic courts. It also recommends that the State party adopt appropriate measures to raise public awareness of the Covenant, the Optional Protocol thereto and the justiciability of economic, social and cultural rights. The Committee draws the State party's attention to its general comment No. 9 (1998) on the domestic application of the Covenant.

Data collection

6. The Committee notes the State party's efforts to improve data collection, such as the establishment in 2020 of the Equality Observatory. However, the Committee is concerned about the lack of systematic collection of data disaggregated by prohibited grounds of discrimination, which hinders a full understanding of the degree to which the Covenant rights are realized.

7. The Committee recommends that the State party improve its data-collection system to collect data disaggregated by prohibited grounds of discrimination, including ethnic and national origin, disability, sex, age and socioeconomic status, with a view to tracking progress in the realization of Covenant rights and formulating effective and targeted public policies, particularly for disadvantaged and marginalized individuals and groups. In addition, the Committee requests that the State party include, in its next periodic report, annual comparative statistical data, disaggregated by the above-mentioned and other relevant grounds, to measure the progress made in the realization of the rights enshrined in the Covenant. The Committee also recommends that the State party take into consideration the conceptual and methodological framework on human rights indicators developed by the Office of the United Nations High Commissioner for Human Rights.

National human rights institution

8. The Committee is concerned that the Advisory Commission on Human Rights does not have the competence to deal with individual complaints and that the financial and human resources allocated to the Commission continue to be insufficient for it to discharge its mandate fully, including with regard to economic, social and cultural rights.

9. The Committee recommends that the State party continue its efforts to enhance the effectiveness and independence of the Advisory Commission on Human Rights, taking into account the observations and recommendations made by the Global Alliance of National Human Rights Institutions in March 2022, including by providing adequate financial and human resources to allow the Commission to discharge its mandate fully. The Committee encourages the State party to consider the possibility of empowering the Commission to receive and consider complaints and petitions concerning individual situations, including in relation to economic, social and cultural rights.

Climate change

10. The Committee notes the measures taken by the State party to mitigate and adapt to the effects of climate change, including the Climate Act of 15 December 2020, the Integrated National Energy and Climate Plan 2021–2030, and the Climate Change Adaptation Strategy and Action Plan 2018–2023. However, the Committee is concerned about reports that public and private financial institutions under the State party's jurisdiction continue to hold significant investments in the fossil fuel industry and other carbon-intensive sectors, despite their harmful impact on the climate. The Committee is also concerned about the lack of transparency and the lack of suitable and effective regulation of the financial sector in this regard.

11. The Committee recommends that the State party take the necessary measures to reduce public and private investments in the fossil fuel industry and other carbon-intensive sectors and ensure that those measures are compatible with the need to reduce greenhouse gas emissions, including through effective regulatory and transparency measures. In this regard, the Committee refers the State party to its statement on

climate change and the Covenant,⁵ as well as to the joint statement on human rights and climate change issued by the Committee on the Elimination of Discrimination against Women, the Committee on Economic, Social and Cultural Rights, the Committee on the Protection of the Rights of All Migrant Workers and Members of Their Families, the Committee on the Rights of the Child and the Committee on the Rights of Persons with Disabilities.⁶

Business and human rights

12. The Committee notes the measures taken by the State party with regard to business and human rights, such as its second National Action Plan on Business and Human Rights 2020–2022 and the National Pact on Business and Human Rights, which is a voluntary commitment. It is concerned, however, that the State party does not impose, through its legislative and regulatory framework, any human rights due diligence obligations on companies domiciled in the State party, including those in the financial sector. The Committee is also concerned that the State party's second National Action Plan does not adequately adhere to the provisions of the Guiding Principles on Business and Human Rights concerning access to effective remedy, in particular with regard to human rights violations committed abroad that are linked to companies domiciled in the State party.

13. **The Committee recommends that the State party adopt a legislative and regulatory framework that: (a) requires companies domiciled in the State party, including those in the financial sector, to exercise human rights due diligence in their operations both in Luxembourg and abroad; (b) holds companies liable for violations of economic, social and cultural rights, including those committed abroad; and (c) enables victims, including non-citizens, to have access to effective remedies in the State party and to seek redress through judicial and non-judicial mechanisms. Given the economic and employment leverage of the State party and State-owned enterprises, the Committee also recommends that the State party strengthen its policy and strategic framework on business and human rights by introducing an appropriate set of measures that includes green procurement policies promoting environmentally friendly products and services in the private sector. The Committee refers the State party to its general comment No. 24 (2017) on State obligations under the Covenant in the context of business activities.**

Maximum available resources

14. The Committee notes the State party's efforts to combat cross-border tax evasion and to work towards transparency, including the adoption of the Act of 13 January 2019 establishing a register of beneficial owners. Nevertheless, it is concerned about reports that, despite the measures taken by the State party, financial flows from third countries that may be connected to illicit activities or be part of tax evasion or tax fraud strategies are still being deposited in financial institutions in the State party through, inter alia, the establishment of shell companies, with negative effects on the availability of financial resources that are essential for the realization of economic, social and cultural rights in the third countries concerned. It is also concerned about the lack of an adequate legal framework for the protection of whistle-blowers (art. 2 (1)).

15. **The Committee recommends that the State party continue to strengthen its measures to combat illicit flows and cross-border tax evasion and tax fraud, in particular by wealthy individuals and corporations, in order to contribute to international efforts to combat illicit flows, tax evasion and tax fraud and to enable other countries to secure the financial resources necessary for the realization of economic, social and cultural rights. In particular, the Committee recommends that the State party avoid a situation where low effective tax rates and the absence of effective regulation and monitoring allow for shell companies to be used for tax evasion and fraud. It also recommends that the State party strengthen its legal framework and measures for the protection of whistle-blowers. The Committee refers the State party**

⁵ E/C.12/2018/1.

⁶ HRI/2019/1.

to its general comment No. 24 (2017) on State obligations under the Covenant in the context of business activities, in particular paragraph 37 thereof.

Development assistance and cooperation

16. The Committee commends the State party for exceeding the target of allocating 0.7 per cent of gross national income to official development assistance by consistently providing 1 per cent since 2000. However, it regrets that, according to information provided by the State party, human rights impact assessments are not carried out as part of the State party's development cooperation (art. 2 (1)).

17. The Committee recommends that the State party fully integrate the rights enshrined in the Covenant into its development cooperation policy, including through human rights impact assessments.

Non-discrimination

18. The Committee notes the information provided by the State party on the progress of anti-discrimination policies and strategies. However, it regrets that proposed amendment No. 7755 of Chapter II of the Constitution, submitted in April 2021, does not include a list of grounds for discrimination, including those set forth in article 2 (2) of the Covenant, and instead establishes only that "[n]o one shall be discriminated against on the basis of personal circumstances or status." The Committee also regrets that the proposed constitutional amendment is worded in such a way as to differentiate between citizens and non-citizens of Luxembourg with regard to equality of all before the law in spite of the jurisprudence of the Constitutional Court, which recognizes the equality of rights between nationals and non-nationals. Furthermore, the Committee notes with concern that the Equal Treatment Act of 2006 does not cover all of the grounds of discrimination set out in article 2 (2) of the Covenant. It is also concerned about the obstacles limiting access to justice for persons seeking to file a complaint of discrimination, including the lack of awareness about the different remedies available and the lack of resources and competence granted to the Centre for Equal Treatment (art. 2 (2)).

19. The Committee recommends that the State party:

(a) **Reconsider the wording in its proposed constitutional amendment to include an explicit, but non-exhaustive, list of prohibited grounds for discrimination and to remove the differentiation between citizens and non-citizens of Luxembourg with regard to equality of all before the law;**

(b) **Revise the Equal Treatment Act to bring it into line with the provisions of article 2 of the Covenant, including all prohibited grounds of discrimination and taking into account the Committee's general comment No. 20 (2009) on non-discrimination in economic, social and cultural rights;**

(c) **Improve the system providing information on remedies for discrimination, allocate sufficient human and financial resources to the Centre for Equal Treatment and grant the Centre the competence to receive complaints and to take legal action on behalf of victims of discrimination.**

Equality between men and women

20. The Committee notes the State party's efforts to address gender inequalities, including in its gender equality policy, plans and programmes; the results achieved in reducing the gender pay gap, which was the lowest in the European Union in 2020; and the sharp increase in the number of men taking parental leave, a trend reflected in the fact that, according to the General Social Security Inspectorate, since 2019, more men have taken this type of leave than women. However, the Committee remains concerned about the overrepresentation of women in the health-care and social work sector and in teaching, the fact that the rate of low-wage employees is twice as high among women and the fact that four out of five part-time jobs are held by women. It is also concerned that women in executive positions earn on average 29 per cent less than their male counterparts and that women remain

underrepresented in leadership and decision-making positions in both the public and private sectors (arts. 3 and 7).

21. **The Committee recommends that the State party:**

(a) **Continue its efforts to close the gender pay gap, including by addressing vertical and horizontal gender segregation in the labour market;**

(b) **Enhance efforts to guarantee equal opportunities for men and women to pursue non-traditional areas of study and careers, including by combating gender stereotypes;**

(c) **Promote increased representation of women at all levels of public administration, particularly in decision-making positions, and in management positions in the private sector;**

(d) **Take into consideration general comment No. 16 (2005) on the equal right of men and women to the enjoyment of all economic, social and cultural rights.**

Right to work

22. The Committee notes the sharp decline in the unemployment rate in the State party from 7.5 per cent in July 2020 to 4.4 per cent in August 2022. However, it is concerned that the unemployment rate is much higher among young persons, persons with disabilities, persons with limited education and nationals of countries outside the European Union, including migrants, refugees and asylum-seekers (art. 6).

23. **The Committee recommends that the State party continue its efforts to reduce unemployment and to assist young persons, persons with disabilities, persons with limited education and nationals of countries outside the European Union, including migrants, refugees and asylum-seekers, in gaining access to employment. The Committee also recommends that the State party ensure that programmes promoting the labour market inclusion of the most disadvantaged and marginalized groups do not perpetuate the concentration of those groups in low-skilled jobs. The Committee further recommends that the State party take into account its general comment No. 18 (2005) on the right to work and its 2017 statement on the duties of States towards refugees and migrants under the Covenant.⁷**

Minimum wage

24. The Committee notes that the minimum wage in the State party is one of the highest in the world and that it is indexed to changes in the cost of living and revalued once every two years at a minimum. However, it is concerned about reports that the minimum wage, when expressed in purchasing power standards, is not enough to cover the basic needs of a single adult or a single-parent household. In addition, the Committee regrets the lack of detailed information on the measures taken to improve compliance with the minimum wage requirement among employers, as well as on the rate of compliance and the penalties imposed on employers who are in breach of that requirement (art. 7).

25. **The Committee recommends that the State party intensify its efforts to ensure that the minimum wage is sufficient to enable workers and their families to enjoy a decent standard of living. It also recommends that the State party strengthen the capacity of labour inspection services to enforce compliance with the minimum wage requirement among employers and that it include in its next periodic report information on the rate of compliance, the penalties imposed on employers failing to respect the right to the minimum wage and the cases in which the rights of workers have been upheld following action taken by labour inspectors. The Committee refers the State party to its general comment No. 23 (2016) on the right to just and favourable conditions of work.**

⁷ [E/C.12/2017/1](#).

Trade union rights

26. The Committee notes with concern that the State party's legislation on the formation and dissolution of trade unions does not fully comply with the Covenant. It is also concerned about the impact on the exercise of the right to strike of the provisions of article 25 of the State party's Constitution, which make open-air gatherings of a political, religious or other nature subject to prior authorization, a restriction that was retained in proposed amendment No. 7755 of Chapter II of the Constitution. The Committee regrets the lack of information from the State party in this regard (art. 8).

27. The Committee recommends that the State party take the necessary steps to guarantee the exercise of trade union rights, including the right to form trade unions and the right to strike, in accordance with article 8 of the Covenant and the provisions of the International Labour Organization Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87). It also recommends that the State party include detailed information on the regulation and exercise of trade union rights in its next periodic report. With regard to constitutional restrictions on the right to peaceful assembly, the Committee draws the State party's attention to the recommendation addressed to it in July 2022 by the Human Rights Committee.⁸

Social security

28. The Committee welcomes the extensive coverage of the social security system in the State party. However, it is concerned about the discriminatory effects of the fact that formal and actual residence is a precondition for access to some significant welfare benefits, such as social inclusion income, for nationals of countries outside the European Union, asylum-seekers and other disadvantaged and marginalized groups. The Committee is also concerned about reports that the most disadvantaged and marginalized individuals experience significant difficulties in accessing information about the benefits available and the related administrative steps (art. 9).

29. The Committee recommends that the State party review the condition of formal and actual residence in order to remove the discriminatory effects thereof on access to social inclusion income, in particular for disadvantaged and marginalized individuals and groups. It also recommends that the State party intensify its efforts to make information about the benefits available through the social security system and the related administrative procedures more accessible to disadvantaged individuals and groups. The Committee draws the State party's attention to its general comment No. 19 (2007) on the right to social security.

Family and child welfare

30. While noting the information provided by the State party regarding family and child welfare, the Committee is concerned about:

- (a) The disadvantage experienced by same-sex couples with regard to recognition of filiation;
- (b) The lack of a juvenile criminal justice system;
- (c) The persistence of the distinction between children born in and out of wedlock and the terminology used – “legitimate children” and “natural children”, respectively – in the State party's legislation (art. 10).

31. The Committee recommends that the State party:

- (a) **Take the necessary measures to establish a legal framework for filiation that fully respects the principle of non-discrimination, including non-discrimination against same-sex couples;**

⁸ CCPR/C/LUX/CO/4, para. 26.

(b) **Expedite the adoption of the three new bills aimed at protecting minors in the juvenile justice system, taking into account the recommendations of the Committee on the Rights of the Child in its concluding observations of 2021;**⁹

(c) **Take the necessary measures to eliminate all forms of discrimination against children born out of wedlock, including by adopting bill No. 6568 concerning the reform of the law on filiation, which seeks to remove the concepts of “legitimate” and “natural” children.**

Right to housing

32. While noting the efforts made by the State party to address the housing crisis, including during the coronavirus disease (COVID-19) pandemic, the Committee is concerned about the persistent gap between housing supply and demand and the increasing cost of rental housing, which mainly affects young persons, single-parent families, low-income persons, migrants, refugees, asylum-seekers and students. It is also concerned about the persistence of homelessness in the State party, particularly among marginalized and disadvantaged individuals and groups, and about the lack of national data on homeless persons (art. 11).

33. **The Committee recommends that the State party strengthen measures taken to efficiently meet the housing needs of the population, with a particular focus on disadvantaged and marginalized individuals and groups, and increase the availability of affordable and low-income housing and the level of housing subsidies. It also recommends that the State party investigate the root causes of homelessness and collect data on homeless persons across the country. In this connection, the Committee refers the State party to its general comment No. 4 (1991) on the right to adequate housing.**

Poverty

34. While noting the measures taken to combat poverty and inequality in the State party, the Committee is concerned about the increase in the risk of poverty and the fact that poverty disproportionately affects young persons, foreign nationals, persons with limited education, unemployed persons and single-parent families. The Committee also notes with concern that the at-risk-of-poverty rate among foreign nationals, primarily those of countries outside the European Union, is twice that among nationals (arts. 2 (1) and 11).

35. **The Committee recommends that the State party strengthen its efforts to combat poverty and inequality and ensure that programmes in this area are implemented using a human rights-based approach and with due attention paid to groups most at risk of poverty, including young persons, foreign nationals, persons with limited education, unemployed persons and single-parent families. In that regard, the Committee invites the State party to consult its 2001 statement on poverty and the Covenant.**¹⁰

Right to physical and mental health

36. While noting the measures taken by the State party to ensure the full realization of the right of everyone to the enjoyment of the highest attainable standard of physical and mental health, including during the COVID-19 pandemic, the Committee notes with concern that:

(a) Some population groups have very limited access to health care, including homeless persons, undocumented migrants, refugees, asylum-seekers, and persons recently released from prison;

(b) There are no regulations prohibiting the performance of surgical procedures on intersex children, which are often irreversible, not medically necessary and harmful to the child’s physical and mental integrity;

(c) There is a particularly high instance of mental health disorders and depression among young persons and migrants, and that mental health services are not widely available or accessible;

⁹ [CRC/C/LUX/CO/5-6](#), para. 31.

¹⁰ [E/C.12/2001/10](#).

(d) Tobacco use and alcohol consumption are major contributors to morbidity and mortality in the State party (art. 12).

37. **The Committee recommends that the State party:**

(a) **Take all necessary measures to ensure that all persons in the State party, including homeless persons, undocumented migrants, refugees, asylum-seekers, and persons recently released from prison, have equal access to preventive, curative and palliative health care;**

(b) **Ensure that, in practice, surgical procedures are not performed on the sex characteristics of intersex children, in the absence of medical necessity or emergency, until such children are capable of forming their own views and giving informed consent, and expedite the adoption of a law to this effect, as provided for in the National Action Plan for the Promotion of the Rights of Lesbian, Gay, Bisexual, Transgender and Intersex Persons;**

(c) **Increase the availability, accessibility, acceptability and quality of professional mental health-care services, and increase efforts to address the root causes of the prevalence of mental health problems in the population groups most affected;**

(d) **Increase its efforts to combat tobacco use and alcohol abuse, including by continuing prevention efforts, taking measures to promote healthy lifestyles and implementing programmes to raise awareness about the increased health risks associated with tobacco use and alcohol abuse;**

(e) **Take into account the Committee's general comment No. 14 (2000) on the right to the highest attainable standard of health and its statement on the duties of States towards refugees and migrants under the Covenant.¹¹**

Right to education

38. The Committee notes the measures taken by the State party to reduce inequalities in education. However, the Committee is seriously concerned about:

(a) Ongoing gaps in achievement related to children's socioeconomic background, migration status and language skills, and notably the low rate of completion of secondary education;

(b) The underrepresentation of pupils from migrant families in "classic" secondary education, which is considered the most prestigious educational pathway;

(c) Reports that the lack of statistics makes it difficult to establish how inclusive education for pupils with disabilities is progressing, and whether, despite the efforts made, some pupils with disabilities are still attending special schools;

(d) Reports of bullying in schools of lesbian, gay, bisexual, transgender and intersex pupils (arts. 13 and 14).

39. **The Committee recommends that the State party:**

(a) **Increase efforts to reduce disparities in educational achievement, particularly among children from low-income and migrant families, as well as families within which the State party's official languages are not spoken;**

(b) **Increase efforts to ensure that language is not a barrier to education and does not increase inequalities, including by introducing language support classes and promoting spaces to discuss and take action on the adaptation of the school system to the social reality of the country;**

(c) **Rectify the underrepresentation of migrant children in "classic" secondary education and review existing criteria for guiding pupils towards the different educational pathways available;**

¹¹ E/C.12/2017/1.

(d) **Enhance its efforts to ensure inclusive education for children with disabilities and strengthen data collection in this area;**

(e) **Protect all children from bullying and violence in schools and increase efforts to prevent bullying and violence and to promote understanding and tolerance.**

Information and communications technologies

40. The Committee notes that connectivity, in particular high-speed Internet coverage, is fairly well developed in the State party. However, it notes with concern that, according to the International Computer and Information Literacy Study¹² conducted in 2018 and an analysis published in the National Report on Education in Luxembourg in 2021, digital skills among pupils in secondary education in Luxembourg are significantly below the global average and that pupils from disadvantaged socioeconomic backgrounds and in general or technical secondary education tend to perform less well, thereby contributing to the deepening of inequalities in schools and widening the digital divide (art. 15).

41. **The Committee recommends that the State party strengthen its efforts to improve digital skills from primary school onward and ensure that scientific progress and its applications, including information and communications technologies, benefit all persons residing in its territory, without discrimination.**

D. Other recommendations

42. **The Committee recommends that the State party consider ratifying the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families.**

43. **The Committee recommends that the State party take into full account its obligations under the Covenant and ensure the full enjoyment of the rights enshrined therein, both in the implementation of the 2030 Agenda for Sustainable Development at the national level and in measures taken to ensure the country's recovery from the COVID-19 pandemic. The achievement of the Sustainable Development Goals would be significantly facilitated by the State party establishing independent mechanisms to monitor progress and treating beneficiaries of public programmes as rights holders who can claim entitlements. The Committee recommends that the State party support the global commitments made as part of the decade of action for the Sustainable Development Goals. Implementing the Goals on the basis of the principles of participation, accountability and non-discrimination would ensure that no one is left behind. In this regard, the Committee draws the State party's attention to its statement on the pledge to leave no one behind.¹³**

44. **The Committee requests that the State party disseminate the present concluding observations widely at all levels of society, including at the communal level, in particular among parliamentarians, public officials and judicial authorities, and that it inform the Committee, in its next periodic report, about the steps taken to implement them. The Committee emphasizes the crucial role of the Parliament in the implementation of the concluding observations and encourages the State party to ensure its participation in future reporting and follow-up procedures. The Committee encourages the State party to engage with all national human rights institutions, non-governmental organizations and other members of civil society in the follow-up to the present concluding observations and in the process of consultation at the national level prior to the submission of its next periodic report.**

45. **In accordance with the procedure on follow-up to concluding observations adopted by the Committee, the State party is requested to provide, within 24 months of**

¹² Julian Fraillon et al., *Preparing for Life in a Digital World: IEA International Computer and Information Literacy Study 2018 International Report*, Amsterdam, International Association for the Evaluation of Educational Achievement, 2020.

¹³ [E/C.12/2019/1](#).

the adoption of the present concluding observations, information on the implementation of the recommendations contained in paragraphs 13 (business and human rights), 21 (c) (equality between men and women) and 23 (right to work) above.

46. The Committee requests the State party to submit its fifth periodic report in accordance with article 16 of the Covenant by 31 October 2027, unless otherwise notified as a result of a change in the review cycle. In accordance with General Assembly resolution 68/268, the word limit for the report is 21,200 words.
