



International Covenant on Civil and Political Rights

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Human Rights Committee

Concluding observations on the fourth periodic report of Luxembourg*

1. The Human Rights Committee considered the fourth periodic report of Luxembourg¹ at its 3880th and 3881st meetings,² held on 29 and 30 June 2022. At its 3908th meeting, held on 20 July 2022, it adopted the following concluding observations.

A. Introduction

2. The Committee welcomes the State party's fourth report and the information presented therein, notwithstanding the fact that it was submitted with a significant delay. It expresses appreciation for the opportunity to renew its constructive dialogue with the State party's high-level delegation on the measures taken during the reporting period to implement the provisions of the Covenant. It is grateful to the State party for its written replies³ to the list of issues,⁴ which were supplemented by oral responses by the delegation, and additional information provided by the State party after the constructive dialogue.

B. Positive aspects

3. The Committee welcomes the following legislative, institutional and policy measures taken by the State party:

(a) The Act of 1 August 2018 on the Organization of the National Data Protection Commission and the General Data Protection Framework;

(b) The Act of 28 February 2018 Strengthening Measures to Combat the Exploitation of Prostitution, Procuring and Trafficking in Persons for Sexual Purposes;

(c) The Act of 8 March 2017 on Luxembourg Nationality, which facilitates the acquisition of nationality and contains several provisions aimed at preventing and reducing statelessness;

(d) The Equal Pay Act of 15 December 2016, which excludes wage discrimination based on sex;

(e) The establishment in June 2015 of an Interministerial Human Rights Committee, one of whose functions is to ensure that the recommendations made by international human rights mechanisms are implemented;

* Adopted by the Committee at its 135th session (27 June–27 July 2022).

¹ [CCPR/C/LUX/4](#).

² [CCPR/C/SR.3880](#) and [CCPR/C/SR.3881](#).

³ [CCPR/C/LUX/RQ/4](#).

⁴ [CCPR/C/LUX/Q/4](#).



(f) The Act of 28 November 2006, which establishes the Centre for Equal Treatment.

4. The Committee welcomes the fact that the State party has ratified or acceded to the following international human rights instruments:

(a) The International Convention for the Protection of All Persons from Enforced Disappearance, on 1 April 2022;

(b) The Council of Europe Convention on Preventing and Combating Violence against Women and Domestic Violence (Istanbul Convention), on 7 August 2018;

(c) The Convention on the Reduction of Statelessness, on 21 September 2017;

(d) The Convention on the Rights of Persons with Disabilities, on 26 September 2011;

(e) The Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography, on 2 September 2011;

(f) The Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, on 19 May 2010;

(g) The Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict, on 4 August 2004.

C. Principal matters of concern and recommendations

Reservations

5. The Committee remains concerned that the State party maintains its reservations to articles 10 (3), 14 (5), 19 (2) and 20 (1) of the Covenant (art. 2).

6. **The State party should consider withdrawing its reservations to articles 10, 14, 19 and 20 of the Covenant.**

Non-discrimination

7. While welcoming the measures taken by the State party to combat all forms of discrimination, the Committee expresses its concern at the lack of prosecutions and convictions for discrimination. It is concerned about the obstacles that limit access to justice for persons wishing to lodge complaints of discrimination, including lack of knowledge of the various remedies available and the lack of resources and competence granted to the Centre for Equal Treatment. Furthermore, the Committee regrets that proposed amendment No. 7755 to chapter II of the Constitution, submitted in April 2021, maintains a formulation that differentiates between citizens of Luxembourg and non-citizens with regard to the equality of all before the law, despite the jurisprudence of the Constitutional Court, which recognizes the equality of rights between nationals and foreigners (arts. 2 and 26).

8. **The State party should increase the financial and human resources allocated to the Centre for Equal Treatment and give it greater powers, including the ability to bring legal actions on behalf of victims of discrimination, as well as strengthen its investigative powers and the binding nature of its decisions. The State party should also reconsider the wording in its proposed constitutional amendments in order to remove the differentiation between citizens of Luxembourg and non-citizens with regard to the equality of all before the law.**

Discrimination against persons with disabilities

9. The Committee welcomes the various measures taken by the State party to combat discrimination against persons with disabilities, including the adoption of the Act of 7 January 2022 on the accessibility of public places, public roads and multi-dwelling buildings for all. It notes that the provisions of this law give effect to the recommendations issued in 2017 by the Committee on the Rights of Persons with Disabilities regarding the definition of “person with disabilities” and “reasonable accommodation”, considering any refusal of

reasonable accommodation as constituting disability-based discrimination and subject to criminal provisions.⁵ The Committee regrets, however, that the criteria for access to certain services and public funding continue to focus on the degree of impairment and that persons with disabilities continue to be underrepresented in the labour market (arts. 2 and 26).

10. **The State party should:**

(a) **Guarantee the effective implementation of the Act of 7 January 2022 on the accessibility of public places, public roads and multi-dwelling buildings for all and take any other appropriate measure to ensure that persons with disabilities are not subjected to discrimination in the exercise of their rights;**

(b) **Ensure that employers comply with their positive obligation to ensure access to the labour market for persons with disabilities, including by providing reasonable accommodation, particularly in the private sector;**

(c) **Review the conditions of access to certain services or public funding linked to the degree of impairment, such as those provided for in the Disability Act of 12 September 2003 which exclude persons with disabilities who do not meet the criterion of a 30 per cent loss of work capacity from the status of employees with disabilities and from the related inclusion assistance.**

Sexual orientation, gender identity and intersex persons

11. While welcoming the adoption of the National Plan of Action to Promote the Rights of Lesbian, Gay, Bisexual, Transgender and Intersex Persons, dated 13 July 2018, and the fact that a draft bill is being prepared on the right to self-determination of intersex children, the Committee notes with concern that children with variations in sexual development at birth sometimes undergo invasive and irreversible medical procedures aimed at assigning them a sex, that these procedures are often based on a stereotypical view of gender roles and that they are performed before the persons concerned are of an age to give their free and informed consent. The Committee is also concerned about the lack of centralized statistics on interventions of this nature and on the rehabilitation and compensation measures that have been provided to persons who have undergone such interventions (arts. 2, 7, 24 and 26).

12. **The State party should strengthen the measures to end the performance of irreversible medical acts, especially surgical operations, on intersex children who are not yet capable of giving their free and informed consent, except in cases where such interventions are absolutely necessary for medical reasons. In this regard, the State party should expedite the adoption of a law to this effect, as foreseen by the above-mentioned plan of action. The State party should also accelerate the establishment of a centralized system for the collection of relevant statistics, including on rehabilitation and compensation measures.**

Right to life and prohibition of torture and other cruel, inhuman or degrading treatment or punishment

13. While welcoming the inclusion in proposed amendment No. 7755 to chapter II of the Constitution of guarantees relating to physical and mental integrity, as well as the prohibition of the death penalty, torture, and inhuman or degrading treatment, the Committee notes with concern that the criteria and thresholds for the use of force by law enforcement officials, which are set out in the Act of 28 July 1973 (as amended on 21 December 2007), do not comply with the criteria of necessity and proportionality set out in international standards, nor with the requirements regarding the circumstances in which firearms may be used (arts. 6 and 7).

14. **The State party should bring its legislation on the use of force and firearms by law enforcement officials into line with the Code of Conduct for Law Enforcement Officials, the Basic Principles on the Use of Force and Firearms by Law Enforcement Officials and other relevant standards.**

⁵ See [CRPD/C/LUX/CO/1](#).

Female genital mutilation

15. The Committee welcomes the various measures taken by the State party to combat female genital mutilation, including the inclusion in the Criminal Code of article 409 bis (through the Act of 20 July 2018) and its extraterritorial applicability through the amendment of article 5-1 of the Code of Criminal Procedure. It also welcomes the measures taken, including in respect of prevention and training, especially for officials responsible for receiving migrants, and the work under way to develop a national strategy on the issue. The Committee is nevertheless concerned about the lack of convictions, the lack of statistics on the extent of the phenomenon and the results of the study conducted by the European Institute for Gender Equality, published in 2021, which points to the presence in Luxembourg of a significant number of girls and women at risk of genital mutilation, which is related to the growing trend of immigration from countries where the practice is still widespread (arts. 3, 7 and 26).

16. **The State party should:**

- (a) **Accelerate the adoption of a national strategy on female genital mutilation;**
- (b) **Continue its awareness efforts for at-risk communities, including by providing information on possible assistance and remedies for victims of female genital mutilation;**
- (c) **Improve the data-collection system in order to assess the scope of the phenomenon, including, in addition to the number of identified cases, the number of complaints filed, investigations opened, prosecutions and convictions, as well as information on assistance, compensation and rehabilitation measures provided to victims.**

Refugees and asylum-seekers

17. While welcoming the various measures taken or envisaged by the State party to make the asylum system more efficient and transparent and more focused on the protection of refugees and asylum-seekers, the Committee expresses its concern about the detention of children, which is still permitted in the State party. In its view, the provisions governing applications for family reunification are in some respects too rigid, particularly with regard to the time limits for the submission of applications that are exempted from means, insurance and housing requirements, and the very narrow concept of the family unit. The Committee is also concerned about the existence of sometimes very long delays in handing down decisions on applications for family reunification, which may constitute a major obstacle to the integration of asylum-seekers (arts. 7, 9, 10, 12–14 and 24).

18. **The State party should:**

- (a) **Amend article 22 (1) of the Act of 18 December 2015 on International Protection and Temporary Protection, article 120 (1) of the amended Act of 29 August 2008 on the Free Movement of Persons and Immigration and article 6 (3) of the Act of 28 May 2009 on the Establishment and Organization of the Holding Facility, in order to prohibit the detention of children, regardless of their migration status;**
- (b) **Ensure that alternative measures to detention are enshrined in law and implemented in practice;**
- (c) **Facilitate the reunification of families of beneficiaries of international protection, by ceasing to impose (strict) deadlines for applying for family reunification under the “more favourable conditions” provided for in article 69 (2) of the Act of 29 August 2008 on the Free Movement of Persons and Immigration, and accept that applications for family reunification may be completed after the deadline;**
- (d) **Consider the actual composition of the family unit and dependency relationships in family reunification applications, including dependent members of the extended family;**
- (e) **Ensure that the family reunification process for beneficiaries of international protection, including decision-making, proceeds without undue delay.**

Statelessness

19. While noting that an administrative procedure for statelessness was established in November 2016, and that few applications were reported by the State party, the Committee regrets that the State party has not expressed its intention to establish a legislative framework better able to guarantee the rights enshrined in the 1954 Convention relating to the Status of Stateless Persons and the 1961 Convention on the Reduction of Statelessness, to which Luxembourg is a party. In particular, the Committee is concerned that at present applicants for stateless status do not have a legal guarantee of the right to stay in the country and are not automatically granted this right after obtaining stateless status, which is not in accordance with the State party's obligations pursuant to its ratification of the Convention relating to the Status of Stateless Persons (arts. 16, 24 and 26).

20. The State party should adopt legislation regulating the procedure to determine the status of statelessness and introducing a residence permit for persons recognized as stateless in order to grant them the rights guaranteed by the 1954 Convention relating to the Status of Stateless Persons.

Freedom of thought, conscience and religion

21. The Committee welcomes the various measures taken by the State party to promote the right to freedom of thought, conscience and religion, and more broadly the initiatives to promote tolerance and coexistence. In particular, it welcomes the introduction in 2016/17 of the course entitled "Life and Society" in basic and secondary education, which replaced religious instruction courses, and which focuses on tolerance based on knowledge and learning through reflective and critical practice. The Committee also welcomes the various measures taken or supported by the State party to combat extremism and violent radicalization. Nevertheless, it expresses its concern about reports of an increasing number of antisemitic incidents and a significant presence of Islamophobic acts in the country (arts. 2, 18 and 26).

22. The State party should continue to take measures to fight against discrimination and hate speech and incitement to hatred and violence aimed at any religious community. In this regard, the State party should finalize the strategy to combat antisemitism that is being developed and consider the advisability of developing a national strategy to combat Islamophobia.

Freedom of expression

23. The Committee takes note of the submission in January 2022 of bill No. 7945 on the protection of persons who report breaches of European Union law ("whistle-blowers"), which will transpose the relevant European Union directive into national law.⁶ It notes that the State party has opted for it to apply broadly to the whole of the national law, and not just to certain sectors. The Committee expresses its concern about articles 144 and 145 of the Criminal Code, which criminalize writings or drawings that insult objects of worship or the ministry of a particular religion, as well as articles 443 and 444 on defamation. It notes the information provided by the State party that a preliminary bill is being drafted to ensure that penalties are appropriate for the acts they address and that the articles in question are covered by this adaptation. Nonetheless, the Committee recalls its general comment No. 34 (2011), paragraph 47 of which provides that States parties should consider the decriminalization of defamation and that, in any case, the application of the criminal law should only be countenanced in the most serious of cases and imprisonment is never an appropriate penalty (arts. 19 and 20).

24. The State party should consider decriminalizing defamation and, in any case, resorting to criminal law only in the most serious cases, bearing in mind that

⁶ European Union, Directive (EU) 2019/1937 of the European Parliament and of the Council of 23 October 2019 on the protection of persons who report breaches of Union law, Official Journal of the European Union, L 305 (26 November 2019), p. 17.

imprisonment is never an appropriate penalty for defamation, as set out in the Committee's general comment No. 34 (2011) on the freedoms of opinion and expression.

Right of peaceful assembly

25. The Committee is concerned about the fact that the provisions of article 25 of the State party's Constitution require prior authorization for open-air, political, religious or other gatherings. It takes note of the information provided by the delegation concerning the implementation of this requirement by local authorities and emphasizing its purpose, which would be to guarantee the safety of gatherings. The Committee is also concerned that this restriction may be retained in proposed amendment No. 7755 to chapter II of the Constitution, which is in the process of adoption (art. 21).

26. **The State party should take the necessary legislative measures to lift the ban on demonstrations that have not been notified in advance, referring to the Committee's general comment No. 37 (2020) on the right of peaceful assembly (paras. 70 and 71). It should also provide the local authorities and police officers with clear guidance on the State party's obligations under article 21 of the Covenant.**

D. Dissemination and follow-up

27. **The State party should widely disseminate the Covenant, its two Optional Protocols, its fourth periodic report and the present concluding observations with a view to raising awareness of the rights enshrined in the Covenant among the judicial, legislative and administrative authorities, civil society and non-governmental organizations operating in the country and the general public. The State party should ensure that the periodic report and the present concluding observations are translated into the official languages of the State party.**

28. **In accordance with rule 75 (1) of the Committee's rules of procedure, the State party is requested to provide, by 28 July 2025, information on the implementation of the recommendations made by the Committee in paragraphs 12 (sexual orientation, gender identity and intersex persons), 16 (female genital mutilation) and 26 (right of peaceful assembly), above.**

29. **In line with the Committee's predictable review cycle, the State party will receive in 2028 the Committee's list of issues prior to the submission of the report and will be expected to submit within one year its replies to the list of issues, which will constitute its fifth periodic report. The Committee also requests the State party, in preparing the report, to broadly consult civil society and non-governmental organizations operating in the country. In accordance with General Assembly resolution 68/268, the word limit for the report is 21,200 words. The next constructive dialogue with the State party will take place in 2030 in Geneva.**
