



# International Covenant on Civil and Political Rights

Distr.: General  
11 December 2020  
English  
Original: French  
English, French and Spanish only

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## Human Rights Committee

### List of issues in relation to the fourth periodic report of Luxembourg\*

#### Constitutional and legal framework within which the Covenant is implemented (art. 2)

1. In light of the Committee's previous concluding observations (CCPR/CO/77/LUX, para. 4), please indicate whether the State party is considering reviewing and withdrawing its reservations to articles 10 (3), 14 (5), 19 (2) and 20 (1) of the Covenant.
2. In view of the direct effect and primacy of the Covenant over domestic law, please provide detailed information on any cases where domestic courts have directly applied the provisions of the Covenant.
3. Please provide information on the steps taken to disseminate the Covenant and its Optional Protocol, as recommended by the Committee in its previous concluding observations, including to judges, lawyers, prosecutors, law enforcement officers and other administrative authorities. Please provide information on the processes in place for implementing the recommendations set out in the Committee's previous concluding observations.

#### Counter-terrorism measures (arts. 2, 7, 9–10, 14 and 17)

4. Please indicate how the measures taken by the State party to respond to threats of terrorism, including the provisions of the Code of Criminal Procedure listed in paragraph 102 of the State party's fourth periodic report (CCPR/C/LUX/4), are compatible with human rights safeguards in law and in practice. Please explain why some recommendations made by the Advisory Commission on Human Rights regarding the Act of 27 June 2018 adapting criminal procedure to counter-terrorism efforts have not been taken into account. Please clarify to what extent the formal requirements in place make it possible in practice to prevent the abusive application of the derogations from ordinary law provided for in certain provisions of the Code of Criminal Procedure that were introduced in order to counter terrorism.

#### Non-discrimination (arts. 2 and 14)

5. Please indicate what, according to the State party, the obstacles to access to justice for victims of discrimination are and what measures have been taken or are being envisaged to overcome them. Please also indicate what measures are being taken to allocate an adequate budget to the Centre for Equal Treatment and to ensure that it takes on a more active role in assisting victims. In addition, please provide information on the implementation of the National Action Plan for Equality between Women and Men, which was adopted in July 2020.

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\* Adopted by the Committee at its 130th session (12 October–6 November 2020).



**Discrimination against persons with disabilities (arts. 2 and 26)**

6. Please provide information on the entitlements enjoyed by persons with disabilities whose work capacity is reduced by less than the 30 per cent established in the law on workers with disabilities. Please also indicate the timeline for the adoption of bill No. 7346 on the accessibility of public places, public roads and multi-dwelling buildings for all and No. 7351 on the accessibility of websites and mobile applications of public sector organizations. Please clarify:

(a) Whether the bills will guarantee the right of access to the physical environment, transportation, information and communications, other facilities and services open or provided to the public and workplaces;

(b) Whether the draft provisions on the right to reasonable accommodation are in line with the Convention on the Rights of Persons with Disabilities.

**Discrimination against lesbian, gay, bisexual, transgender and intersex persons (arts. 2 and 26)**

7. Please provide updated information on the implementation of the National Plan of Action to Promote the Rights of Lesbian, Gay, Bisexual, Transgender and Intersex Persons, particularly with regard to the introduction of a legal ban on non-emergency “sex normalizing” medical treatment without the free and informed consent of the intersex person and the amendment of legislation that results in the restriction of the right to donate blood on the basis of sexual orientation alone. Furthermore, pending the adoption of relevant legislation, please indicate what mechanisms are in place to stop non-consensual sex-change surgery and to enable survivors of such surgery to obtain redress.

**States of emergency (art. 4)**

8. Please provide information on the implementation of the constitutional provisions on states of emergency since their adoption in 2017. Specifically, please describe in detail the restrictions on rights and freedoms that were introduced and explain how oversight of the strict necessity and proportionality of the derogating measures is ensured. Please explain how such oversight was carried out in the context of the state of emergency declared in response to the coronavirus disease (COVID-19) pandemic. In addition, please describe the mechanism, whether judicial or parliamentary, that has oversight over the decisions taken by the executive branch during a state of emergency.

**Right to life and prohibition of torture and other cruel, inhuman or degrading treatment (arts. 6–7)**

9. Please clarify whether the State party plans to provide for the protection of the right to life and the right of everyone to physical and mental integrity in the Constitution.

10. Please provide information on the steps taken by the State party to bring its legislation on the use of force, in particular the Act of 28 July 1973 regulating the use of weapons and other means of restraint by members of the security forces in the fight against crime, into line with international standards.

**Access to justice (arts. 2 and 14)**

11. Please explain why the practice of issuing “certificates of good character”, which are often issued by the State party’s authorities together with criminal records, has continued, even though such practice is not regulated and is not mentioned in the Act of 29 March 2013 on Criminal Records.

**Refugees and asylum seekers (arts. 7, 9–10, 12–14 and 24)**

12. Please indicate whether the State party is considering amending the Act of 29 August 2008 on the Free Movement of Persons and Immigration in order to remove certain obstacles faced by beneficiaries of international protection in the context of applications for family reunification.

13. Please provide information on the steps taken to address the lack of access to information by persons seeking international protection. Furthermore, please explain why the provision of legal assistance to these persons is limited to certain aspects of material reception conditions.

**Female genital mutilation (arts. 3, 7 and 26)**

14. Please indicate the timeline for the adoption of legislative and regulatory measures relating to the State party's extraterritorial obligations regarding the elimination of female genital mutilation. Please specify whether the State party intends to establish female genital mutilation as an offence separate from that established in article 400 of the Criminal Code.

**Statelessness (arts. 16, 24 and 26)**

15. While noting the rules for acquiring Luxembourg nationality as set out in the Act of 8 March 2017 on Luxembourg Nationality, please describe the progress made towards the adoption of a legislative and regulatory framework on the procedure for determining the status of stateless persons in the State party. Please clarify the rights and obligations of applicants and beneficiaries of stateless status, in particular with regard to the right of residence in the State party during the procedure.

**Right to privacy (art. 17)**

16. Please indicate the status of bill No. 6961, which provides for the establishment of a national security authority. Please provide more information on the legislative provisions adopted in recent years concerning the collection, storage and processing of personal data and on how their confidentiality and security is ensured. In addition, please explain to what extent the provisions contained in the Act of 17 July 2020 introducing a series of measures in response to the COVID-19 pandemic, the Act of 27 June 2018 adapting criminal procedure to counter-terrorism efforts and the Act of 1 August 2018 on the Obligation to Declare Certain Diseases for the Protection of Public Health are compatible with the right to privacy, as enshrined in the Covenant, the right to be informed about the use of such data and the right to object to their collection, transmission and storage.

**Freedom of expression (arts. 19–20)**

17. Please detail the protections afforded to journalists and whistle-blowers with regard to the dissemination of information that is classified or protected but of legitimate public interest. Please indicate whether the State party is considering incorporating the relevant provisions into the Act of 8 June 2004 on Freedom of Expression in the Media, as amended by the Act of 27 July 2007 and the Act of 11 April 2010. Please provide information on the measures established by law to protect human rights defenders.

18. Please indicate to what extent articles 144 and 145 of the Criminal Code establishing as an offence writings or drawings that insult the object of worship or ministers of a particular religion, as well as articles 443 and 444 on defamation, are compatible with article 19 of the Covenant.

**Freedom of conscience, belief and religion (arts. 2, 18 and 26)**

19. Please provide information on the impact of the action taken by the State party, such as the signing of a convention between the Grand Duchy of Luxembourg and the religious communities established in Luxembourg. Please also provide information on the introduction of a course entitled "Life and Society" to replace religious instruction and moral and social education. In addition, please provide information on the measures taken to address the increase in reported cases of antisemitic and Islamophobic incidents.

**Right of peaceful assembly (art. 21)**

20. Please explain whether the provisions of article 25 of the State party's Constitution are understood to require prior authorization for open-air political, religious or other gatherings. Please provide information on the procedures for the notification and authorization of gatherings and demonstrations.