



**Convention on the Elimination
of All Forms of Discrimination
against Women**

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**Committee on the Elimination of Discrimination
against Women**

Twenty-eighth session

Summary record of the 601st meeting

Held at Headquarters, New York, on Wednesday, 22 January 2003, at 10 a.m.

Chairperson: Ms. Açar

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The meeting was called to order at 10.10 a.m.

Consideration of reports by States parties under article 18 of the Convention *(continued)*

Fourth periodic report of Luxembourg
(CEDAW/C/LUX/4)

1. *At the invitation of the Chairperson, Ms. Jacobs and Ms. Mulheims (Luxembourg) took their places at the Committee table.*

2. **Ms. Jacobs** (Luxembourg) said that the Ministry for the Advancement of Women had always been guided by the Convention. The recommendations of the Committee regarding previous periodic reports had been transmitted to ministers, the Parliament and NGOs involved in women's issues. They had also been incorporated into the Beijing +5 National Plan of Action.

3. Acting on the Committee's recommendations, a bill for the ratification of the Optional Protocol to the Convention and a bill to amend article 20 (1) of the Convention would soon be put before the Parliament. A proposal to incorporate equality between men and women in the Constitution was still under debate.

4. A proposal for the removal of the reservation regarding article 7 of the Convention, which had been motivated by the fact that succession to the crown of the Grand Duchy passed down the male line of the royal family, had also been put forward. The Government had concluded that the article of the Constitution dealing with succession could be altered, despite the general rule against amending the Constitution during a legislative term. A bill for the removal of the reservation regarding article 16 of the Convention, connected with children's patronymic names, was before the Council of State.

5. The Government was aware that sexual harassment in the workplace was a persistent problem despite legislation to prevent it, and that it was an under-reported phenomenon. Since equality delegates within companies were often the first to receive reports of harassment, they were being given training on gender issues, legislation, mediation and equality plans for businesses. Domestic violence was being tackled through a comprehensive bill whose implementation would be monitored by a number of ministries and women's NGOs. Members of the police force were also

being given specific training in that field. Passing the bill into law would also enable the Government to respond to the Committee's appeal for statistics on the incidence of domestic violence. An additional shelter was being opened in the north of the country, a film on the victims of domestic violence was being produced, and information leaflets regarding shelters were being translated into Portuguese. Those activities were part of an ongoing education programme to combat violence and gender stereotyping. A prize for best practice in equality policy within a municipality or commune would be awarded in 2003.

6. Asylum-seekers were protected by a legislative framework which included a right to welfare until their applications for asylum had been considered. Special attention was paid to women who were unaccompanied or were heads of household. Pregnant women were housed close to maternity services and were provided with a woman interpreter where necessary.

7. Trafficking in women, which involved sexual exploitation or exploitation of labour, was being fought by legislative and practical means. Luxembourg devoted 0.7 per cent of its gross domestic product to development aid, and some of that aid was targeted at improving the economic security of women in their own countries, to make them less vulnerable to traffickers. There were no cases pending before the courts under the 1999 law providing for increased efforts against trafficking and the sexual exploitation of children. The Government had produced a leaflet against sex tourism involving children which was distributed by travel agents and at Luxembourg airport. Luxembourg was aware that its procedure for granting entry visas to cabaret artists had been criticized, and it would welcome the Committee's advice on best practice in preventing trafficking.

8. Gender stereotyping was being attacked by educating young schoolchildren to reject violence, sexism and unconscious gender stereotyping. Training in schools was complemented by training of teachers and in the workplace. The traditional roles of men and women had changed, and the number of women who took care of the home full time had decreased by 18,400 between 1991 and 2001. Paid parental leave was taken by 13 per cent of men; that was a positive development, as the practice had only been introduced in 1999. Action would be taken to encourage more men to take leave, for the purpose of sharing the responsibility of taking care of children and the home.

Changes in legislation had made it easier to open childcare centres, and Government grants were provided to help meet costs. More childcare was being provided outside school hours.

9. Improved childcare and adult education were helping to increase the number of women in the workplace. In response to the Committee's request to the Government to close the wage gap between men and women, a project had been set up in January 2002. It combined the efforts of the Government, employers and employees, trade unions, managerial associations, towns and communes and the National Council of Women. When the project began, most stakeholders had denied that there was a wage gap. When it ended, however, management and the trade unions had agreed on a project to combat the phenomenon and provide training on gender-neutral evaluation of job descriptions and performance. The average wage gap had been estimated at 28 per cent, and once structural differences in the jobs performed by men and women had been discounted, there remained a 12 per cent gap that could only be explained by gender difference.

10. The Committee had called for more information on the health situation of women in Luxembourg, so studies were being undertaken to produce sex-disaggregated data on infant and child mortality, nursing mothers, ante- and post-natal care and osteoporosis. Moreover, cancer-prevention and general wellness campaigns were being planned.

11. The Government had confirmed its commitment to the Convention and to gender mainstreaming in all policies. It would continue to practice positive discrimination and to adopt temporary special measures ensuring de facto equality between men and women wherever discrimination was still apparent.

12. **The Chairperson** praised Luxembourg for submitting a comprehensive third periodic report only two years after its second report, and for disseminating the Committee's previous concluding comments in government circles and in civil society. Speaking in her personal capacity, she expressed disappointment that although Luxembourg had been one of the first signatories of the Optional Protocol to the Convention, it had not yet ratified it. The progress it had made towards withdrawing its reservations on articles 7 and 16 of the Convention should also be translated into results as soon as possible.

Articles 1 to 6

13. **Ms. Schöpp-Schilling** said that although the report contained a wealth of information derived from numerous studies, future reports should stress concrete measures taken to address problems identified by those studies. She also recalled the Committee's guidelines on the length of periodic reports.

14. She said the examples of temporary special measures given in the report were too general in nature and were not the type of measures envisaged in article 4 (1) of the Convention to accelerate de facto equality. She wondered whether there were any affirmative action plans to promote gender equality in private enterprises and whether the Law of 12 February 1999 made it mandatory for both public and private enterprises to develop such action plans, with clear timetables, goals and procedures for accountability.

15. **Ms. Gaspard** noted that the State party had taken into account the conclusions of the Committee and followed the format for periodic reports. She welcomed its efforts to increase awareness of the Convention among adolescents. However, she was concerned at the contradiction between the stated objectives and commitments of the Government and translation of those objectives into law. Most of the examples cited having to do with constitutional review, elimination of the reservation to article 7 and article 16, the use of temporary special measures, sexual harassment and others were still under review or pending. It was essential that those good intentions be given effect in the near future.

16. **Mr. Flinterman** said that although it approved that international instruments were enforceable by the courts on condition that they were currently in force, had been approved by Parliament and had been published, he wondered who decided when such instruments were applicable; was it the Executive or the judiciary? Furthermore, did the lack of precedents or case law relating to the Convention mean that the Government or the judiciary had decided it was not directly applicable? He also wondered whether imminent ratification of the Optional Protocol, which assumed that the provisions of the Convention were already fully applicable, would have a positive effect on implementation of the Convention in the courts. Finally, with regard to article 3, he stressed that the Convention imposed an obligation to promote gender issues not only domestically but also in foreign policy

and asked whether Luxembourg's development cooperation policy included a gender component.

17. **Ms. Morvai** welcomed what appeared to be a sincere commitment to women's rights but stressed the need to be more proactive in banning or at least discouraging prostitution. Gender equality was impossible so long as women could still be treated like objects. She would welcome more information on efforts to educate both clients and prostitutes and help prostitutes leave the sex trade. She stressed the need to combat the phenomenon of trafficking as well and wondered why, for example, so-called cabaret dancers were accorded special status.

18. **Ms. Šimonović** said that although in principle the Convention was automatically applicable, there did not seem to be any cases where it had in fact been invoked. She therefore wondered how aware lawyers and judges were of the provisions of the Convention and how many women judges there were.

19. **Ms. Shin** said the examples given in the report of temporary and special measures failed to illustrate the necessary concrete action to accelerate gender equality. She found the system of delegates for equality in private enterprises to be laudable, but expressed surprise that only six complaints had been received in the period 2001-2002. She noted that apparently only one third of enterprises had such delegates and more than half of those delegates were men. She wondered whether they were appointed or were serving as volunteers. While the system appeared to have great potential, regrettably it had not been functioning effectively, judging by the mere handful of complaints received.

20. **Ms. Saiga** expressed surprise at the lack of government statistics on violence against women, including domestic violence and wondered whether such information was available. Furthermore, she noted that there were numerous very comprehensive bills and projects in the area of women's rights, but they were still pending or under review. She stressed the need to move quickly to enact them.

21. **Ms. Tavares da Silva** expressed gratification about the tremendous increase in the number of working women as well as the number of men taking advantage of parental leave. With regard to article 11, she wondered to what degree Luxembourg was actively promoting equality in the workplace and the relationship of such efforts to European Union

standards. She also welcomed the Government's clear commitment to the integration of foreign women workers from neighbouring and more distant countries.

22. She deplored the slow pace of legislative review and wondered, for example, whether the Government was genuinely determined to exercise political will to withdraw the reservation to article 7 of the Convention. With regard to prostitution and trafficking, she regretted the lack of information in the delegation's responses (CEDAW/PSWG/2003/I/CRP.2) to the Committee's list of issues and questions (CEDAW/PSWG/2003/I/CRP.1/Add.4). She wondered whether that lack of information and of an integrated programme to eliminate prostitution meant that the problem was not considered to be a priority.

23. **Ms. Jacobs** (Luxembourg) said that some of the delays in legislative review could be attributed to the political structure in Luxembourg. In its coalition Governments all political parties had to agree on the measures put forward and bills had to be drafted for review by the Chamber of Deputies and/or by the Council of State. Amendments could be proposed by the Government, relevant committees or deputies, all of which took a great deal of time. Once the need for a measure was accepted, however, it would eventually become law.

24. Much progress had been made in the private sector, where social partners were required to negotiate a plan on equality objectives. Although they were not obligated to ensure concrete results, gender issues at least had to be discussed. In fact, the private sector seemed keen to promote women's issues as a means of ensuring employee loyalty.

25. Commenting on Luxembourg's reservations to the Convention, she said that the draft amendment to the Constitution providing for equal rights and duties for women and men should be adopted by 2004 and European Union standards would also have to be met promptly. The need for constitutional reform was generally accepted in Luxembourg society, including by the Grand Duke and his family. Gender issues, along with education and the environment, were also important aspects of Luxembourg's development cooperation assistance in recognition of the important role women could play in development efforts and in addressing issues such as the spread of HIV/AIDS.

26. Turning to the problem of prostitution, she said that the problem had been much discussed in

Luxembourg, and was aggravated by the large population of foreign workers. Procuring and soliciting for purposes of prostitution was illegal and she noted that, for example, the city of Luxembourg had taken a series of measures to control the number of prostitutes in the area of the train station. Her delegation would welcome suggestions from the Committee on ways to combat the scourge of prostitution and trafficking in persons, for example the question of granting visas to cabaret dancers. Luxembourg's embassies abroad were doing everything possible to make immigrants and migrant workers aware of potential problems such as trusting people smugglers or accepting suspicious work proposals. Local and foreign non-governmental organizations provided medical, legal and social assistance to prostitutes, helping them abandon prostitution.

27. She said that efforts were continuing to educate delegates for equality, union representatives and managers about the problem of sexual harassment. She pointed out that on a working day there were probably more foreigners in Luxembourg than native Luxembourgers and that until very recently, very few women in Luxembourg worked outside the home; the tremendous increase in the number of working women had not met with the approval of all segments of society.

28. **Ms. Ecker** (Luxembourg), in reply to questions concerning the status of the Convention in domestic law, said that like other international instruments it superseded domestic law and prevailed in a conflict with the latter. The courts were empowered to decide if the Convention was applicable, and in two of the three cases where the Convention had been invoked, they had so ruled. Courts in Luxembourg often looked to France or Belgium for jurisprudence in such matters.

29. The Government had hesitated to implement special temporary measures in favour of women because it felt the legal basis was lacking, but after article 11 of the Constitution was amended to add a definition of discrimination, such measures would have a constitutional basis.

30. **Ms. Mulheims** (Luxembourg), speaking on the subject of employment, said that under the 1998 national plan of action for employment, every company was required to appoint an equality delegate to receive training on gender and equal opportunity issues. The Government was working with trade unions and

business owners to launch a culture of equality and awareness to change attitudes, which would be a prerequisite for affirmative action measures to be effective. Discussions had begun on work and family issues and salary disparity, and research was being conducted to give a clearer picture of occupations that employed most women workers. Training was also being provided on evaluating jobs in a gender-neutral way.

Articles 7 to 9

31. **Ms. Achmad** requested clarification of Government efforts to increase women's political participation, as prescribed in the Convention. The Government must make a serious effort to support and expand the action taken by the political parties to achieve that objective. She would also welcome clarification of the role of women in non-governmental organizations; their contribution would seem to be limited to social and cultural fields, whereas they should be free to become involved in political, economic and security matters as well.

32. Mentoring was mentioned as one of the activities intended to change attitudes, and she would like to hear more about the mentors and whether they had received gender-sensitive training.

33. **Ms. Belmihoub-Zerdani** said that women's low level of participation in politics and decision-making was a significant weakness in Luxembourg's implementation of the Convention. The fate of efforts to increase participation rested with the political parties, but gender quotas were not even on their agenda for discussion. The Government must take the lead in that area and adopt laws to promote women's political participation. A good place to begin would be with the appointment of women to the Council of State.

34. On the other hand, she congratulated Luxembourg as one of the few developed nations which had met its target of 0.7 per cent of gross domestic product for official development assistance.

35. **Ms. Jacobs** (Luxembourg) said that the Government had proposed to provide subsidies to parties which established quotas for women in their electoral lists, but the parties had rejected the proposal. It was proving very difficult to change attitudes towards women in politics and to harmonize their family obligations with politics and professional life.

Currently, four of the twelve ministers on the Council of State were women.

36. **Ms. Doerner** (Luxembourg) said that the National Women's Council, which she chaired, had provided both financial and technical support to women in politics. Her organization served as a bridge between the interests of women and the Government, but it was more than a lobbying group; it was consulted for advice at all levels of policy development. With the help of the Ministry, it had promoted women's involvement in politics at the local and commune level. It had succeeded in making it obligatory for each commune with a population over 1,000 to establish an equal opportunity commission. At the national level, its activities had given women greater visibility. The Council was seeking to ensure a healthy future for Europe through its efforts to promote adoption of a European convention on equal opportunity. It had a lawyer on staff who could provide legal opinions on all equality-related legislation. The Council held meetings twice a year on women's issues and provided training for women in such areas as public speaking.

Articles 10 to 16

37. **Ms. Khan**, referring to article 11 of the Convention, said that although Luxembourg had seen significant economic and employment growth, the participation of women in the job market remained low. She therefore wondered whether Luxembourg's economic development had come at the cost of cheap labour, since cross-border workers accounted for a large proportion of the labour force. She also wondered whether cross-border workers had access to long-term jobs with benefits, what level of training they received, and what kinds of work they performed. Luxembourg's report had provided certain reasons why many women did not participate in the labour market, such as the lack of advanced degrees and the lack of an adequate childcare system. However, although the Government had taken a number of steps to remedy that situation, most of its activities appeared to be concerned with sensitization and awareness-raising activities, and the Committee would welcome more information about practical measures it had taken.

38. **Ms. Kuenyehia** said that she had been very pleased with Luxembourg's fourth periodic report, which had provided significant information about women's health, thereby demonstrating the Government's close attention to the issue. However,

she had been intrigued by the almost total lack of information about HIV/AIDS, and wondered why that information had not been included in the report.

39. **Ms. Kwaku**, referring to article 14 of the Convention, said that Luxembourg had provided very little information about rural women in general, and that the Committee would have liked to see more details on that issue. She wondered whether the Law of 24 July 2001 concerning support for rural development, mentioned in the report under article 14, was the same as that mentioned earlier in the report under article 9 of the Convention, which was referred to as the law on nationality, yet bore the same date. She also asked for more information about the rural development law, notably concerning the provisions of the law, its state of implementation, and the extent to which women had benefited from its provisions.

40. **Ms. Saiga** noted, with regard to article 12, that the new pension law would improve women's pensions, but would welcome more information about how the new law would help women, and how it might be expected to change the statistics provided in the responses to the list of issues and questions for consideration of the fifth and sixth periodic reports.

41. **Ms. Gabr** noted that Luxembourg had made little reference to the elderly in its report, despite the importance of the issue. The report contained some details about certain relevant projects that had been implemented and round tables held, but more information about the impact of those measures should be provided.

42. **Ms. Gnacadja** expressed disappointment that Luxembourg had said little about articles 15 and 16 of the Convention, and that no new steps had been taken under article 16. Luxembourg's Constitution did not guarantee equality between the sexes, and except in certain cases domestic legislation had not yet incorporated the terms of the Convention. The reporting State should provide information about other areas addressed by article 16. Certain elements of Luxembourg's report had appeared to indicate gender inequality under the law. For example, the Committee would welcome information about cases to which the Law of 28 June 2001 on the burden of proof of gender-based discrimination applied. Moreover, it appeared that unpaid women workers, or those whose wages did not conform to the relevant legal provisions, did not benefit from the law of 26 May 2000 on sexual

harassment in the workplace. That omission also appeared to indicate gender inequality under the law. The Committee would also welcome information about measures planned to resolve the situation in Luxembourg's prisons. Since different regimes were applied depending on the gender of the inmates and depending on the prison, and there was a lack of trained female staff, that situation was likely to continue for a long time.

43. Luxembourg society did not appear to appreciate fully those who perform unpaid work, especially stay-at-home women. Moreover, although women who were pregnant, infirm or in the care of their aggressor, but not related to him, did benefit if there was an aggravating circumstance in that punishment of the latter was more severe, they were excluded from the summary procedures available to victims of domestic violence. That exclusion also seemed to indicate inequality under the law; indeed, it appeared that the inequalities under the law tended to nourish *de facto* inequalities. The Committee would welcome more information about the measures envisaged to address that situation and, since legislative procedures in Luxembourg tended to be rather lengthy, about any interim positive measures that might be taken. Although the report had also mentioned that traditional gender stereotypes were strongly entrenched in Luxembourg society, no statistical or other case data had been provided. The reporting State should also indicate whether laws benefiting women were in fact applied, how the courts treated violence and discrimination in general, and whether women had equal access to the courts. With reference to article 16, the Committee would welcome additional information about rights and duties during marriage and at the dissolution of the marriage.

44. **Ms. Jacobs** (Luxembourg), responding to the Committee's questions, said that the report had dealt briefly with certain questions because there had been no new developments since the submission of its previous reports. Luxembourg certainly did not profit from cross-border workers, who enjoyed the same rights as domestic workers, especially with regard to pay and benefits (notably family benefits). Cross-border workers were generally paid more in Luxembourg than in their own countries, and laws protected domestic and foreign workers in equal measure. Moreover, under European Union rules, it would be prohibited from implementing discriminatory

laws that disadvantaged them. All workers in Luxembourg worked a 40-hour week regardless of whether they were Luxembourg citizens. Usually workers from abroad had already been trained before they arrived in Luxembourg. The women of Luxembourg had always tended to stay at home and look after their children while their husbands went out to work. Consequently, it was very hard for women to join or return to the workplace later in life, especially if they lacked training. The lack of an adequate childcare system was also a problem in that respect. In reply to the Committee's questions about HIV/AIDS, she said that the relevant statistics would be made available to the Committee.

45. On the question of rural women, the law of 24 July 2001 concerning support for rural development was not the same as the law on nationality mentioned under article 9 of the Convention. Thus, as a criterion for qualifying for rural aid, whether or not a farmer was a Luxembourg citizen was irrelevant. Life for all Luxembourg's farmers was very difficult. There were fewer and fewer farms, and the Government was very concerned to provide farmers with as much assistance as possible, and to achieve that end by working in collaboration with the European Union. Start-up grants were available for women farmers, and for the increasing number of women active in areas such as rural development, rural tourism, and national parks.

46. Since many women tended to stop working for a period of many years, they had not benefited, in the past, from a full pension on their retirement. That situation was changing, however. The Government paid social security contributions on behalf of women who needed to look after dependants. It also paid for the medical care of elderly dependants, and for accommodation costs of dependants living in retirement homes. Luxembourg had put in place a significant number of such measures, enabling women to participate in the labour market and to ensure that the elderly were not excluded from Luxembourg society.

47. **Ms. Ecker** (Luxembourg), addressing the question of Luxembourg's brief responses to articles 15 and 16, reiterated that previous periodic reports had explicitly discussed those questions. Furthermore, legal equality had largely been achieved during the 1970s. During that period, many new laws had been introduced, notably regarding women's legal capacity and their rights in marriage and divorce, and the

Convention had been adopted and introduced into Luxembourg's domestic legislation. The absence of further details on those questions in Luxembourg's latest report was explainable because, with the exception of the pending law on the patronymic name, the Government did not feel that it needed to make significant changes to a situation that had been in existence since 1980. Women did enjoy the same access to the courts as men, and that question had also been addressed at length in Luxembourg's initial report. There were two mechanisms protecting women in those matters: a legal information service provided especially for women by the courts, and a legal aid programme for low-income women, guaranteeing the services of a lawyer paid by the State. Many women had taken advantage of those mechanisms.

The meeting rose at 1 p.m.