



International Convention on the Elimination of All Forms of Racial Discrimination

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Committee on the Elimination of Racial Discrimination

Concluding observations on the combined eighteenth to twentieth periodic reports of Luxembourg*

1. The Committee considered the combined eighteenth to twentieth periodic reports of Luxembourg¹ at its 2875th and 2876th meetings,² held on 19 and 20 April 2022. At its 2887th meeting, held on 27 April 2022, it adopted the present concluding observations.

A. Introduction

2. The Committee welcomes the State party's appearance before it on this tenth occasion and the submission of its combined eighteenth to twentieth periodic reports. The Committee expresses its appreciation for the constructive dialogue held with the State party's delegation. It thanks the delegation for the information provided in the course of its consideration of the reports and for the supplementary information submitted after the dialogue.

B. Positive aspects

3. The Committee welcomes the State party's ratification of, or accession to, the following international instruments:

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

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

(c) Optional Protocol to the Convention on the Rights of the Child on a communications procedure, on 12 February 2016;

(d) Optional Protocol to the International Covenant on Economic, Social and Cultural Rights, on 3 February 2015.

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

(a) A study on racism and ethnic-racial discrimination in Luxembourg,³ the results of which were published in March 2022, following a motion passed on 1 July 2020 by the Chamber of Deputies, which invited the Government to carry out a study on racism in Luxembourg with a view to developing a meaningful anti-racism strategy;

* Adopted by the Committee at its 106th session (11–29 April 2022).

¹ [CERD/C/LUX/18-20](#).

² See [CERD/C/SR.2875](#) and [CERD/C/SR.2876](#).

³ Luxembourg, Ministry of the Family, Integration and the Greater Region, Intercultural and Social Research and Training Centre and Luxembourg Institute of Socio-Economic Research, *Le racisme et les discriminations ethno-raciales au Luxembourg*, 2022.



- (b) The Act of 28 February 2018 on Strengthening Measures to Combat the Exploitation of Prostitution, Procuring and Trafficking in Persons for Sexual Purposes;
- (c) The 2018–2023 coalition agreement, which reaffirms the best interests of asylum-seeking children who are unaccompanied and separated from their families as a primary consideration throughout the asylum procedure;
- (d) The establishment of the Interministerial Committee on Human Rights, in July 2015.

C. Concerns and recommendations

Statistics

5. The Committee takes note of the data on national origin provided by the State party and of the fact that the State party does not collect ethnic-racial data for historical reasons. The Committee finds it regrettable that the State party still does not collect data disaggregated by ethnic origin, as this makes it impossible for the Committee to assess the extent to which different groups enjoy the rights provided for in the Convention (arts. 1–2).

6. **Recalling its guidelines for reporting under the Convention,⁴ the Committee reiterates its recommendation⁵ that the State party collect anonymous, reliable and up-to-date statistics on socioeconomic indicators, disaggregated by ethnic origin, in order to provide an adequate empirical basis for assessing policies and measures aimed at ensuring the equal enjoyment of all the rights protected under the Convention by all the groups of people living in its territory, without discrimination.**

Constitutional prohibition of discrimination

7. The Committee is concerned that the draft constitutional amendments currently under consideration do not provide for the equality of all persons before the law, but maintains article 10 bis (1) of the Constitution, which provides that “Luxembourgers are equal before the law”, suggesting that there may be inequality between nationals and non-nationals before the law. It is also concerned that this amendment does not incorporate the grounds of discrimination described in article 1 of the Convention, but rather is limited to establishing that “no one may be discriminated against on the basis of his or her personal situation or circumstances” (art. 1).

8. **The Committee urges the State party to seize the opportunity presented by the constitutional amendments to guarantee the equality of all persons under its jurisdiction before the law, without discrimination based on race, colour, descent or national or ethnic origin, in order to avoid weakening the fundamental prohibition of discrimination under article 1 of the Convention. It also urges the State party to incorporate into the new constitutional text a comprehensive list of grounds of discrimination, including those set out in article 1 of the Convention.**

Application of the Convention by national courts

9. The Committee again finds it regrettable that no information was available on cases in which the Convention has been invoked before or applied directly by the State party’s courts. It is concerned that this may signify that there is insufficient knowledge of the Convention on the part of the judiciary, civil society and the general public (art. 2).

10. **The Committee reiterates its recommendation⁶ to the State party to step up training and awareness-raising efforts aimed at judges, prosecutors, law enforcement personnel, lawyers and the general public regarding the Convention to ensure that it is invoked or applied directly by the courts.**

⁴ CERD/C/2007/1.

⁵ CERD/C/LUX/CO/14-17, para. 6.

⁶ Ibid., para. 8.

Legislation against racial discrimination

11. The Committee is concerned that, despite the amendments introduced by the Act of 7 November 2017 to bring national laws into line with article 1 of the Convention, the Act of 28 November 2006, on equal treatment, the 2006 Labour Code, the Act of 16 April 1979, establishing the general status of State officials, and the Act of 24 December 1985, establishing the general status of municipal officials, do not prohibit discrimination on the basis of colour and descent. The Committee is also concerned that article 454 of the Criminal Code does not refer to the ground of descent. In addition, it is concerned that there is no legislative provision explicitly prohibiting racial profiling (arts. 2 and 4).

12. The Committee recommends that the State party bring its national legislation, including the aforementioned laws and codes, into full compliance with article 1 of the Convention. It further recommends that the State party include in its legislation an explicit prohibition of racial profiling based on the Committee's general recommendation No. 36 (2020).

Institutional framework

13. The Committee takes note of the many institutions involved in combating racial discrimination, including the Centre for Equal Treatment, the Ombudsman, the Advisory Commission on Human Rights, the National Council for Foreigners and the National Reception Office. It is concerned, however, about the reported lack of coordination between these institutions and the fact that this multiplicity of actors makes it difficult for victims to determine which is the most appropriate institution to contact in a given situation. In addition, despite an increase in resources allocated to the Centre for Equal Treatment and the Advisory Commission on Human Rights in recent years, the Committee remains concerned that the financial and human resources allocated to these two institutions remain insufficient for them to fulfil their mandates. Finally, it is concerned that the Centre for Equal Treatment does not have a clear legal status and that its mandate does not cover the ground of discrimination based on national origin (art. 2).

14. The Committee recommends that the State party ensure that the aforementioned institutions collaborate effectively on racial discrimination issues and that it set up a system or improve the existing system for providing information to potential victims on the appropriate institution for them to contact. It also recommends that the State party allocate sufficient human and financial resources to the Centre for Equal Treatment and the Advisory Commission on Human Rights to enable them to fulfil their mandates effectively. It further recommends that the Centre for Equal Treatment be given a clear legal status and that the ground of discrimination based on national origin be included in its mandate.

Conformity of criminal law with article 4 of the Convention

15. While noting the information provided by the State party, the Committee remains concerned that, under the Criminal Code, racist motivation of a crime still does not constitute an aggravating circumstance. It also remains concerned that there is no specific provision in the Criminal Code prohibiting and declaring illegal any organization that incites racial discrimination (art. 4).

16. Recalling its general recommendations No. 7 (1985), No. 15 (1993) and No. 35 (2013), the Committee reiterates its recommendation⁷ that the State party introduce an aggravating circumstance for racially motivated crimes. It again recommends⁸ that the State party incorporate in its criminal law a specific provision that declares illegal and prohibits any organization that incites racial discrimination, in accordance with article 4 (b) of the Convention.

⁷ Ibid., para. 11.

⁸ Ibid., para. 12.

Racist hate speech

17. The Committee notes the measures taken by the State party to combat hate speech, such as the “BEE SECURE Stopline” platform, which collects and forwards reports of hate speech on the Internet to the police. However, it is concerned about reports of an increase in the number of cases of racial hate speech against migrants, refugees, asylum seekers and people of African descent, particularly on the Internet and in social media. It is also concerned about the lack of data disaggregated by ethnic origin, without which it is impossible to know the extent of the problem of racial hate speech (art. 4).

18. The Committee recommends that the State party:

(a) **Take steps to prevent, condemn and combat hate speech directed at the groups that are the most at risk of racial discrimination, including such speech when conveyed over the Internet and in social media, and ensure that all reported cases of racial hate speech are investigated effectively and, where appropriate, prosecuted and punished;**

(b) **Step up its efforts to stop the spread of racial hate speech over the Internet and in social media in close cooperation with Internet service providers, social media platforms and the groups of people that are the main targets of racial hate speech;**

(c) **Conduct public awareness campaigns aimed at tackling prejudice and misinformation concerning migrants, refugees, asylum seekers and people of African descent and promoting respect for diversity and the elimination of racial discrimination;**

(d) **Collect reliable and comprehensive statistics, based on ethnic origin, on reports of racial hate speech, as well as any prosecutions, convictions and sentences resulting from those reports, and the remedies provided to victims.**

Situation of non-nationals, including migrants, refugees, asylum seekers and stateless persons

19. The Committee takes note of the information provided by the State party on the measures adopted to increase its capacity to take in asylum seekers and refugees, including those fleeing the war in Ukraine, regardless of their nationality, as well as on the steps taken to guarantee the rights of non-nationals. The Committee is nonetheless concerned about:

(a) The fact that asylum seekers have to wait six months after submitting an application before they are granted access to the labour market;

(b) The period of at least three months before being able to benefit in practice from universal health-care coverage, which leaves migrants in an irregular situation without adequate protection;

(c) Reports that many shelters for asylum seekers do not comply with health and hygiene requirements and that asylum seekers are routinely transferred from one shelter to another, despite the State party’s efforts to address these situations;

(d) Reports of the overrepresentation of non-national students in general secondary education (technical high schools) as well as their overrepresentation among early school leavers;

(e) The lack of specific laws on statelessness, including on the statelessness determination procedure (art. 5).

20. The Committee recommends that the State party:

(a) **Shorten the six-month period in order to allow asylum seekers quicker access to the labour market;**

(b) **Take the necessary measures to ensure in practice that migrants in an irregular situation have effective and non-discriminatory access to health care;**

(c) **Continue its efforts to ensure access to adequate housing for asylum seekers;**

(d) **Strengthen measures to ensure, in practice, that non-national students have effective and non-discriminatory access to education, including mainstream secondary schools;**

(e) **Consider the adoption of specific laws on statelessness, including on a statelessness determination procedure.**

Racial discrimination against people of African descent

21. While noting the information provided by the State party, the Committee is concerned that, according to the results of the study *Le racisme et les discriminations ethno-raciales au Luxembourg*, published in March 2022, people of African descent are victims of racism and discrimination in significantly higher proportions than other groups of people in the search for employment and housing, in the workplace and in education (art. 5).

22. **Recalling its general recommendation No. 34 (2011) on racial discrimination against people of African descent, the Committee recommends that the State party take effective measures, including special measures, to combat racism and all forms of discrimination against people of African descent, in particular in the areas of employment, housing and education. It also recommends that the State party adopt a national strategy for the inclusion of people of African descent, in partnership with people of African descent.**

Complaints of racial discrimination

23. The Committee notes with concern that, according to the results of the study *Le racisme et les discriminations ethno-raciales au Luxembourg*, published in March 2022, two thirds of alleged victims of racism or discrimination do not file a complaint, owing to, inter alia, the high financial costs involved, the significant burden of proof, fear of losing their jobs, especially in cases of discrimination in the workplace, and limited legal assistance. It is again concerned that the Centre for Equal Treatment does not have the competence to receive complaints or to take part in legal proceedings (art. 6).

24. **The Committee recommends that the State party take measures to facilitate victims' access to justice, including by providing them with information on complaint mechanisms, reducing the costs of proceedings, protecting victims from reprisals and strengthening the legal assistance system. It reiterates its recommendation⁹ to the State party that the Centre for Equal Treatment be granted the competence to receive complaints and to take part in legal proceedings.**

Education and training to combat racial discrimination

25. The Committee welcomes the opening in April 2022 of the exhibition "Luxembourg's Colonial Past" at the National Museum of History and Art. It also takes note of the "Life and Society" school programme, which is aimed at promoting tolerance and incorporates information on the Universal Declaration of Human Rights. However, it is concerned about the lack of detailed information available on coverage of the fight against racial discrimination and of the rights enshrined in the Convention. The Committee regrets that the history of colonialism and slavery is not covered at all school levels (art. 7).

26. **The Committee recommends that the State party continue its efforts to ensure that human rights education, including on the fight against racism and discrimination, as well as on respect for diversity and the promotion of equal treatment, is part of the curriculum at all school levels. It encourages the State party to include the history of colonialism and slavery and their consequences in the curriculum.**

⁹ Ibid., para. 15.

D. Other recommendations

Ratification of other treaties

27. Bearing in mind the indivisibility of all human rights, the Committee encourages the State party to consider ratifying those international human rights instruments that it has not yet ratified, in particular treaties with provisions that have direct relevance to communities that may be subjected to racial discrimination, including the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families and the International Labour Organization (ILO) Domestic Workers Convention, 2011 (No. 189).

Follow-up to the Durban Declaration and Programme of Action

28. In the light of its general recommendation No. 33 (2009) on follow-up to the Durban Review Conference, the Committee recommends that, when implementing the Convention, the State party give effect to the Durban Declaration and Programme of Action, adopted in September 2001 by the World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance, taking into account the outcome document of the Durban Review Conference, held in Geneva in April 2009. The Committee requests that the State party include in its next periodic report specific information on action plans and other measures taken to implement the Durban Declaration and Programme of Action at the national level.

International Decade for People of African Descent

29. In the light of General Assembly resolution 68/237, in which the General Assembly proclaimed 2015–2024 the International Decade for People of African Descent, and General Assembly resolution 69/16 on the programme of activities for the implementation of the Decade, the Committee recommends that the State party prepare and carry out a suitable programme of measures and policies in collaboration with organizations and people of African descent. The Committee requests that the State party include in its next periodic report specific information on the concrete measures adopted in that framework, taking into account its general recommendation No. 34 (2011) on racial discrimination against people of African descent.

Consultations with civil society

30. The Committee recommends that the State party continue consulting and broadening its dialogue with civil society organizations working in the area of human rights protection, in particular those working to combat racial discrimination, including organizations representative of the groups most exposed to racial discrimination, in connection with the preparation of the next periodic report and in follow-up to the present concluding observations.

Dissemination of information

31. The Committee recommends that the State party's reports be made readily available to the public at the time of their submission and that the concluding observations of the Committee with respect to those reports be similarly made available to all State bodies entrusted with the implementation of the Convention, including municipalities, and publicized on the website of the Ministry of Foreign and European Affairs in the official and other commonly used languages, as appropriate.

Follow-up to the present concluding observations

36. In accordance with article 9 (1) of the Convention and rule 65 of its rules of procedure, the Committee requests the State party to provide, within one year of the adoption of the present concluding observations, information on its implementation of the recommendations contained in paragraphs 8 (constitutional prohibition of discrimination) and 18 (b) and (c) (racist hate speech) above.

Paragraphs of particular importance

37. The Committee wishes to draw the attention of the State party to the particular importance of the recommendations contained in paragraphs 10 (application of the Convention by the national courts), 12 (legislation against racial discrimination) and 16 (conformity of criminal law with article 4 of the Convention) above and requests the State party to provide detailed information in its next periodic report on the concrete measures taken to implement those recommendations.

Preparation of the next periodic report

38. The Committee recommends that the State party submit its combined twenty-first to twenty-fourth periodic reports by 31 May 2025, taking into account the reporting guidelines adopted by the Committee during its seventy-first session¹⁰ and addressing all the points raised in the present concluding observations. In the light of General Assembly resolution 68/268, the Committee urges the State party to observe the limit of 21,200 words for periodic reports.

¹⁰ [CERD/C/2007/1](#).