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Committee on Economic, Social and Cultural Rights

Information received from Luxembourg on the follow-up to the concluding observations on its fourth periodic report*

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* The present document is being issued without formal editing.



I. Business and human rights

Follow-up information related to paragraph 13 of the concluding observations (E/C.12/LUX/CO/4)

1. On Wednesday 24 April 2024, the European Parliament approved the new directive on corporate sustainability due diligence. The Grand Duchy of Luxembourg has always been strongly committed to this draft directive in the European context and now has two years to transpose the text into its national legislation.

2. Below are the concrete steps taken by Luxembourg.

Require 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.

3. International instruments on human rights, labour and the environment have hitherto imposed rules solely on States. With the transposition of the new European directive, companies too will, for the first time, have a binding framework imposed on them.

4. Article 1 (a) of the directive defines this binding framework as follows:

“Art. 1 This Directive lays down rules on: ... obligations for companies regarding actual and potential human rights adverse impacts and environmental adverse impacts, with respect to their own operations, the operations of their subsidiaries, and the operations carried out by their business partners in the chains of activities of those companies.”

5. It should be noted that financial services are temporarily excluded from the scope of the directive, but there is a review clause (art. 36) allowing for possible future inclusion of the downstream financial sector if warranted by an impact assessment.

Hold companies liable for violations of economic, social and cultural rights, including those committed abroad.

6. The text to be transposed into national law provides for a civil liability regime. Liability may be incurred in the case of intentional acts or gross negligence on the part of the company, and in the event of harm caused to a natural or legal person.

7. Concerning both points (a) and (b), it should be noted that the definition of chain of activities, as set out in article 3 (1) (g) of the directive, would cover “offshore” operations, as the directive defines it as “activities of a company’s upstream business partners related to the production of goods or the provision of services by that company, including the design, extraction, sourcing, manufacture, transport, storage and supply of raw materials, products or parts of products and the development of the product or the service”.

Effective remedies

8. Victims of violations by companies will have a right of redress: they will be able to take legal action in European Union courts and obtain reparation for the harm incurred. Certain procedural obstacles are also to be removed, so that victims can effectively enjoy the right of appeal. Reference is made to article 29 of the directive, which concerns the civil liability of companies and the right to full compensation.

II. Equality between men and women

Information on the follow-up to the recommendations contained in paragraph 21 (c) of the concluding observations

9. National policy on gender equality is governed, on the one hand, by the provisions of the Government's coalition agreement and, on the other, by the National Action Plan for Gender Equality.

10. The Action Plan for Gender Equality sets forth the main lines of action. The first action plan was drawn up in 2006; it was then renewed in 2009 and 2015. The new action plan is regularly adapted in the light of developments in various areas. Many of the Ministry's partners are consulted when drafting the action plan. These include legislative, executive and judicial bodies, as well as local authorities, social partners and non-governmental organizations (NGOs). The process is monitored by the Interministerial Committee on Gender Equality. A new Government having taken office in 2023, the latest action plan has just been evaluated and is now being revised.

11. The Government considers that the positive actions programme will remain an appropriate instrument for achieving genuine equality in employment.

12. The programme, which is available to employers who wish to make equality a central part of their corporate culture, proposes concrete measures that will provide specific advantages to facilitate the pursuit of an occupational activity by workers of the underrepresented sex or to eliminate or offset disadvantages in the pursuit of those workers' careers, whether in private companies or the public sector.

13. These measures apply in the areas of equal treatment, equal work-life balance and equal decision-making.

14. The Government also undertakes to take steps to achieve more balanced representation in senior civil service positions.

III. Right to work

Information on the follow-up to the recommendations in paragraph 23 of the concluding observations

15. By the Act of 7 August 2023 amending the amended Act of 29 August 2008 on the free movement of persons and immigration and the amended Act of 18 December 2015 on the reception of applicants for international protection and temporary protection, access to the Luxembourg labour market for applicants for international protection and for migrants benefiting from a deferral or stay of removal has been facilitated by the abolition of the requirement for a market survey by the Employment Development Agency. As a result, the provision giving priority to Luxembourg nationals, European Union citizens and third-country nationals with a right of residence in Luxembourg is no longer applied when applicants for international protection and migrants benefiting from a deferral or suspension of removal wish to access the job market.

16. Luxembourg also has a National Reception Office, which facilitates the integration of applicants for international protection or beneficiaries of international protection into the labour market.

17. As part of the Youth Guarantee programme to combat youth unemployment, the Employment Development Agency, the Youth Outreach Office and the National Youth Service work together to help people find the right path to working life. They undertake to offer prospects and added value for the future within four months of registration. The plan is to go even further, in particular by making companies more aware of the difficulties faced by the population, providing more information on the assistance available, and encouraging them to adopt a social and solidarity-based approach. Continuing education policy is also

important for young people's employability. <https://adem.public.lu/fr/demandeurs-demploi/aides-financieres-mesures/mesures-emploi/mesures-jeunes/garantie-jeunesse/quest-la-garantie-jeunesse.html>

18. The Social Business Incubator, launched in late 2022, enhances existing services and boosts the development of new services, programmes and training courses dedicated to social entrepreneurship and social innovation. <https://socialbusinessincubator.lu/>

19. The extension of compulsory schooling to 18 years of age (Act of 20 July 2023 on compulsory education, parl. doc. No. 7977) will help reduce the school dropout rate and ensure better integration into the world of work. This measure to combat school dropout will be accompanied by the introduction of alternative training opportunities. The extension is in line with trends in neighbouring countries and will increase the chances of success in the future. It will also make it possible to reinforce individual follow-up, support in the event of social and family difficulties and the development of social skills. <https://men.public.lu/fr/actualites/communiques-conference-presse/2022/02/22-obligation.html>

20. Under Council Implementing Decision (EU) 2022/382 of 4 March 2022, Ukrainian refugees in Luxembourg do not need a special work permit and can freely access the Luxembourg labour market as long as their temporary protection certificate is valid and subject to the legal provisions of the Labour Code. Once such refugees have been formally granted temporary protection status, they can register as job seekers with the Employment Development Agency. The Agency has set up a special unit dedicated to beneficiaries of temporary protection status in its Luxembourg City branch. <https://adem.public.lu/en/actualites/adem/2022/03/inscription-ukr.html>

21. The European Social Fund's "Investing in the Future" programme (2021–2027) supports and complements the policies of Luxembourg to ensure equal opportunities, equal access to the labour market, decent, fair working conditions, and social protection and inclusion. Within this framework, particular emphasis is placed on inclusive, quality education and training, lifelong learning, investment in children and young people, and access to basic services. The specific objectives selected will help combat unemployment (particularly among the 45+ population, the long-term unemployed and young people). <https://fonds-europeens.public.lu/fr/fonds-europeens/fse.html>

22. With nearly one person in seven (some 94,000) identifying as living with disability, disability is a key issue on the new Government's political agenda. In Luxembourg, a person with a disability can apply for recognition as a disabled employee if their working capacity is reduced by at least 30 per cent. This status may make them eligible for measures that can help them access and retain employment. For some employees with disabilities, the Ministry of Labour also funds and supports various programmes, in particular sheltered workshops. A monitoring tool is planned for 2025, which will enable the various measures to be tracked. https://gouvernement.lu/fr/actualites/toutes_actualites/communiques/2024/06-june/17-mischo-salaries-handicapes.html

23. New Act to address the shortage of skilled labour (entry into force 1 September 2023; parl. doc. No. 8227). This Act introduces major changes designed to simplify the hiring of third-country nationals:

- Persons who are family members of third-country nationals and who have a Luxembourg residence permit on the basis of family reunification will be authorized to work in Luxembourg as soon as they arrive, and will therefore have free access to the labour market. This amendment applies to holders of a "family member" residence permit. As a result, they will no longer need to obtain a work permit or self-employment permit before starting waged work or self-employment. Free access to the job market is explicitly mentioned on residence permits issued from 1 September, which now bear the words "authorized to work in Luxembourg"
- Access to the job market is facilitated for applicants for international protection whose application procedure has lasted six months, and for beneficiaries of a deferral or stay of removal who apply for a temporary work permit, as the labour market survey

carried out by the Employment Development Agency is abolished from this date for these people

- The validity of residence permits issued after this date for the purpose of seeking employment or setting up a business is extended from 9 to 12 months
<https://adem.public.lu/fr/actualites/adem/2023/09/metiers-penurie.html>

24. Simplification of procedures for hiring third-country nationals not yet present in Luxembourg. There are two possible scenarios:

- Occupations on the list of occupations where there is a serious shortage of labour: the Employment Development Agency publishes an annual list of occupations where there is a serious shortage of labour, based on objective data. For these jobs, the Agency is no longer obliged to carry out a market survey and check whether job seekers matching the profile sought by the employer are available. The certificate will be issued within five working days
- For jobs not on the acute shortage list, the market survey will still be carried out, but within a shorter time frame

25. Directive 2021/1883 of the European Parliament and of the Council of 20 October 2021 on the conditions of entry and residence of third-country nationals for the purposes of highly qualified employment, was transposed by the Act of 4 June 2024 amending the amended Act of 29 August 2008 on the free movement of persons and immigration. Taking into account the demands of Luxembourg's economic players, the legislative changes are designed to simplify the procedure for obtaining a European Union Blue Card and to enhance the country's ability to attract and retain talented workers.

26. Beneficiaries of international protection are entitled to apply for a Blue Card provided they meet all the necessary conditions.
https://gouvernement.lu/fr/actualites/toutes_actualites/communiques/2024/07-juillet/01-gloden-directive-europeenne.html
