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**Human Rights Council**  
**Working Group on the Universal Periodic Review**  
Forty-third session  
1–12 May 2023**Luxembourg****Compilation of information prepared by the Office of the United Nations High Commissioner for Human Rights****I. Background**

1. The present report was prepared pursuant to Human Rights Council resolutions 5/1 and 16/21, taking into consideration the outcome of the previous review.<sup>1</sup> It is a compilation of information contained in relevant United Nations documents, presented in a summarized manner owing to word-limit constraints.

**II. Scope of international obligations and cooperation with human rights mechanisms**

2. The Human Rights Committee welcomed the ratification of the International Convention for the Protection of All Persons from Enforced Disappearance, in 2022, and the Council of Europe Convention on Preventing and Combating Violence against Women and Domestic Violence (Istanbul Convention), in 2018.<sup>2</sup>

3. The Working Group on Business and Human Rights applauded Luxembourg for ratifying the International Labour Organization (ILO) Indigenous and Tribal Peoples Convention, 1989 (No. 169) and urged the Government to implement the Convention into national law.<sup>3</sup>

4. The Committee on the Elimination of Racial Discrimination recommended that Luxembourg consider ratifying the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families and the ILO Domestic Workers Convention, 2011 (No. 189).<sup>4</sup>

5. The Human Rights Committee indicated that Luxembourg should consider withdrawing its reservations to articles 10, 14, 19 and 20 of the International Covenant on Civil and Political Rights.<sup>5</sup>

6. The Committee on the Rights of the Child noted the information provided that the reservations to the Convention on the Rights of the Child could be withdrawn if Bills No. 6568 and No. 7674 concerning parentage and access to information on one's origin were adopted. It recommended that Luxembourg take measures to accelerate the adoption of the above-mentioned bills and consider withdrawing its reservations to the Convention.<sup>6</sup>

7. Luxembourg contributed financially to the Office of the United Nations High Commissioner for Human Rights annually between 2017 and 2022.<sup>7</sup>



8. In 2021, Luxembourg submitted its midterm report regarding the implementation of the recommendations made during the third cycle of the universal periodic review, in 2018.<sup>8</sup>

### **III. National human rights framework**

#### **1. Constitutional and legislative framework**

9. The Committee on Economic, Social and Cultural Rights recommended that Luxembourg reconsider the wording in its proposed constitutional amendment to include an explicit, but non-exhaustive, list of prohibited grounds for discrimination and to remove the differentiation between citizens and non-citizens of Luxembourg with regard to equality of all before the law.<sup>9</sup> The Committee on the Elimination of Racial Discrimination and the Human Rights Committee made similar recommendations.<sup>10</sup>

#### **2. Institutional infrastructure and policy measures**

10. The Committee on Economic, Social and Cultural Rights recommended that Luxembourg continue its efforts to enhance the effectiveness and independence of the Advisory Commission on Human Rights, including by providing adequate financial and human resources to allow the Commission to discharge its mandate fully, and also encouraged it to consider the possibility of empowering the Commission to receive and consider complaints and petitions concerning individual situations, including in relation to economic, social and cultural rights.<sup>11</sup>

11. The Committee on the Rights of the Child recommended that Luxembourg strengthen its Interministerial Human Rights Committee established to coordinate and prepare reports to and engage with international and regional human rights mechanisms.<sup>12</sup>

### **IV. Promotion and protection of human rights**

#### **A. Implementation of international human rights obligations, taking into account applicable international humanitarian law**

##### **1. Equality and non-discrimination**

12. The Committee on the Elimination of Racial Discrimination was concerned that 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, did not prohibit discrimination on the basis of colour and descent. The Committee recommended that Luxembourg bring its national legislation, including the aforementioned laws and codes, into full compliance with article 1 of the International Convention on the Elimination of All Forms of Racial Discrimination.<sup>13</sup>

13. The same Committee reiterated its recommendation that Luxembourg introduce an aggravating circumstance for racially motivated crimes and that it incorporate in its criminal law a specific provision declaring illegal any organization that incited racial discrimination.<sup>14</sup>

14. The Committee on the Elimination of Racial Discrimination expressed concern at the results of a 2022 study which indicated that people of African descent were 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. The Committee recommended that Luxembourg take effective measures, including special measures, to combat racism and all forms of discrimination against people of African descent, and that it adopt a national strategy for the inclusion of people of African descent.<sup>15</sup>

15. While noting measures taken to combat hate speech, the Committee on the Elimination of Racial Discrimination expressed concern 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 was also concerned

about the lack of data disaggregated by ethnic origin, without which it was impossible to know the extent of the problem.<sup>16</sup>

16. The same Committee recommended that Luxembourg take steps to prevent, condemn and combat hate speech directed at the groups that were 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 were investigated effectively and, where appropriate, prosecuted and punished.<sup>17</sup> The Committee on Economic, Social and Cultural Rights recommended that Luxembourg improve its data-collection system to collect data disaggregated by prohibited grounds of discrimination.<sup>18</sup>

17. The Human Rights Committee expressed its concern about reports of an increasing number of antisemitic incidents and a significant presence of Islamophobic acts in the country. It indicated that Luxembourg should continue to take measures to fight against discrimination and hate speech and incitement to hatred and violence aimed at any religious community. In that regard, Luxembourg should finalize the strategy to combat antisemitism that was being developed and consider the advisability of developing a national strategy to combat Islamophobia.<sup>19</sup> The Committee on the Elimination of Discrimination against Women recommended strengthening action to combat all forms of discrimination against women and girls belonging to religious minority groups.<sup>20</sup>

## **2. Right to life, liberty and security of person, and freedom from torture**

18. The Human Rights Committee noted with concern that the criteria and thresholds for the use of force by law enforcement officials, which were set out in the Act of 28 July 1973 (as amended on 21 December 2007), did 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. It stated that Luxembourg 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.<sup>21</sup>

## **3. Administration of justice, including impunity, and the rule of law**

19. The Human Rights Committee was concerned about the obstacles that limited access to justice for persons wishing to lodge complaints of discrimination, which included lack of knowledge of the various remedies available and the lack of resources and competence granted to the Centre for Equal Treatment. It recommended that Luxembourg 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.<sup>22</sup> The Committee on the Elimination of Racial Discrimination recommended that Luxembourg 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.<sup>23</sup>

20. The Committee on the Elimination of Discrimination against Women was concerned about the lack of court decisions on cases of discrimination against women since the adoption of the Acts relating to equality of treatment between men and women in 2008 and 2016 and about reports indicating the limited funding provided to legal aid services and the resulting reluctance of lawyers to represent victims of violence and discrimination against women. The same Committee recommended that Luxembourg allocate sufficient resources to ensure that women who were victims of discrimination and gender-based violence but were without sufficient means had access to free legal aid.<sup>24</sup>

21. The Working Group on Business and Human Rights noted the existence of challenges with regard to access to justice in relation to corporate accountability for human rights abuses and noted that access to justice in Luxembourg was slow and could be prohibitively expensive, especially for victims of human rights abuses committed abroad. It highlighted the need for human rights training, particularly business and human rights training, for judges and public defenders.<sup>25</sup>

22. The Committee on Economic, Social and Cultural Rights, concerned about the lack of a juvenile criminal justice system, recommended that Luxembourg expedite the adoption of the three new bills aimed at protecting minors in the juvenile justice system.<sup>26</sup>

23. The Committee on the Rights of the Child recommended that Luxembourg ensure that all children below the age of 18 years, without any exceptions, alleged to have infringed, or accused of or recognized as having infringed criminal law, were treated within the child justice system by specialized judges; establish a minimum age for deprivation of liberty of children; ensure that detention, including in prison-like conditions in security units, was used as a measure of last resort and for the shortest possible period of time and that it was reviewed on a regular basis; and ensure that solitary confinement was not used for a child, and that any separation of the child from others was for the shortest possible time and was used only as a measure of last resort.<sup>27</sup>

#### **4. Fundamental freedoms and the right to participate in public and political life**

24. The Human Rights Committee expressed concern about articles 144 and 145 of the Criminal Code, which criminalized writings or drawings that insulted objects of worship or the ministry of a particular religion, as well as articles 443 and 444 on defamation. It stated that Luxembourg should consider decriminalizing defamation, and, in any case, resorting to criminal law only in the most serious cases, bearing in mind that imprisonment was never an appropriate penalty for defamation.<sup>28</sup> The United Nations Educational, Scientific and Cultural Organization (UNESCO) made similar observations.<sup>29</sup>

25. The Human Rights Committee was concerned about the fact that the provisions of article 25 of the Constitution required prior authorization for open-air, political, religious or other gatherings, and stated that Luxembourg should take the necessary legislative measures to lift the ban on demonstrations that had not been notified in advance.<sup>30</sup>

26. The Committee on the Elimination of Discrimination against Women was concerned that the proportion of women among leaders of major political parties remained low, and recommended strengthening temporary and permanent special measures and financial incentives for political parties, with a view to achieving the equal representation of women on electoral lists and in the Chamber of Deputies and the Council of State.<sup>31</sup>

#### **5. Right to marriage and family life**

27. The Committee on the Elimination of Discrimination against Women recommended that Luxembourg harmonize the treatment of all women, including those in de facto unions and same-sex relationships, with regard to the distribution of property upon dissolution of their union or relationship and to the recognition of paternity in cases of medically assisted procreation and in the adoption of stepchildren, regardless of their civil status.<sup>32</sup>

#### **6. Prohibition of all forms of slavery, including trafficking in persons**

28. The Committee on the Elimination of Discrimination against Women recommended that Luxembourg introduce provisions on universal jurisdiction in its criminal law; amend its Penal Code to bring its definition of trafficking into line with the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, and define in its legislation the responsibilities for cross-border crimes; and adopt regulations on early identification of women and girls who were victims of trafficking and their referral to appropriate social services and ensure a gender-sensitive approach when considering asylum applications.<sup>33</sup>

#### **7. Right to work and to just and favourable conditions of work**

29. The Committee on Economic, Social and Cultural Rights noted the sharp decline in the unemployment rate, but remained concerned that the rate was much higher among young persons, persons with disabilities, persons with limited education and nationals of countries outside the European Union, including migrants, refugees and asylum-seekers. It recommended that Luxembourg continue its efforts to reduce unemployment among these groups.<sup>34</sup>

30. The same Committee recommended that Luxembourg take the necessary steps to guarantee the exercise of trade union rights, including the right to form trade unions and the right to strike, in accordance with article 8 of the Covenant and the provisions of the ILO Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87).<sup>35</sup>

## **8. Right to an adequate standard of living**

31. While noting the measures taken to combat poverty and inequality in the country, the Committee on Economic, Social and Cultural Rights was concerned about the increase in the risk of poverty and the fact that poverty disproportionately affected young persons, foreign nationals, persons with limited education, unemployed persons and single-parent families. The Committee recommended that Luxembourg strengthen its efforts to combat poverty and inequality and ensure that programmes in this area were implemented using a human rights-based approach and with due attention paid to groups most at risk of poverty.<sup>36</sup>

32. The Committee on the Rights of the Child was concerned that the child poverty rate remained higher than that of the general population and continued to grow, especially in single-parent households and among children of immigrant parents, children without residence permits and children of parents affected by unemployment and/or with a low level of education. The same Committee recommended that Luxembourg renew its commitment to end child poverty, including through a national plan of action and by addressing the root causes of such poverty.<sup>37</sup>

33. The Committee on Economic, Social and Cultural Rights was concerned about the persistent gap between housing supply and demand and the increasing cost of rental housing, which mainly affected young persons, single-parent families, low-income persons, migrants, refugees, asylum-seekers and students. The Committee recommended that Luxembourg strengthen measures to efficiently meet the housing needs of the population, with a particular focus on disadvantaged and marginalized individuals and groups.<sup>38</sup>

## **9. Right to health**

34. The Committee on Economic, Social and Cultural Rights was concerned that some population groups had very limited access to health care, that there was a particularly high instance of mental health disorders and depression among young persons and migrants, and that tobacco use and alcohol consumption were major contributors to morbidity and mortality.<sup>39</sup>

35. The same Committee recommended that Luxembourg take all necessary measures to ensure that all persons in the country, including homeless persons, undocumented migrants, refugees, asylum-seekers, and persons recently released from prison, had equal access to health care. It also recommended that Luxembourg increase the availability, accessibility, acceptability and quality of professional mental health-care services, increase efforts to address the root causes of the prevalence of mental health problems in the population groups most affected, and increase efforts to combat tobacco use and alcohol abuse, including by continuing prevention efforts and taking measures to promote healthy lifestyles.<sup>40</sup>

36. While welcoming the National Suicide Prevention Plan 2015–2019 and additional measures taken in 2020 during the coronavirus disease (COVID-19) pandemic, the Committee on the Rights of the Child recommended that Luxembourg evaluate the implementation of the plan and develop a new plan that would take into account the results of such evaluation.<sup>41</sup>

## **10. Right to education**

37. With regard to the relevant recommendations from the third cycle of the universal periodic review,<sup>42</sup> UNESCO observed that, in 2018, the School Mediators network had been established to achieve a more inclusive education system by combating school dropout and supporting the inclusion of children with special educational needs and children with an immigrant background.<sup>43</sup>

38. The Committee on the Rights of the Child was concerned that the 2019–2024 national action plan for the implementation of the Convention on the Rights of Persons with

Disabilities was focused on inclusion in non-formal education and did not propose measures for inclusion in formal education.<sup>44</sup> The same Committee recommended that Luxembourg set up comprehensive measures to develop inclusive education, and train and assign specialized teachers and professionals in integrated classes.<sup>45</sup>

39. The Committee on the Elimination of Discrimination against Women expressed concern about reports of bullying and violence towards migrant and lesbian, bisexual and transgender girls and adolescents and intersex children and adolescents in school settings.<sup>46</sup>

40. The Committee on Economic, Social and Cultural Rights recommended that Luxembourg increase efforts to reduce disparities in educational achievement, particularly among children from low-income and migrant families, as well as families within which the country's official languages were not spoken, and to ensure that language was not a barrier to education and did not increase inequalities, including by introducing language support classes. It also recommended that Luxembourg enhance its efforts to ensure inclusive education for children with disabilities and that it strengthen data collection in this area, protect all children from bullying and violence in schools and increase efforts to prevent bullying and violence and to promote understanding and tolerance.<sup>47</sup>

41. The Committee on the Rights of the Child recommended that Luxembourg continue measures to address inequalities generated by the COVID-19 crisis during home schooling, including by ensuring, among other things, the availability of computer equipment and sufficient Internet access; continue its efforts to reduce school dropout and exclusions from school and to raise awareness about the services available to children and their families, in particular school mediation services.<sup>48</sup>

42. The Committee on the Elimination of Discrimination against Women expressed concern about the low enrolment rate of women, especially migrant women from non-European countries, in tertiary education, and the concentration of women in traditionally female-dominated fields of study and career paths. The Committee recommended that Luxembourg address structural barriers that deterred girls from progressing beyond secondary education, and that it adopt a gender-sensitive approach to career guidance, including on the basis of role models, in order to encourage girls to enrol in traditionally male-dominated fields.<sup>49</sup>

## **11. Development, the environment, and business and human rights**

43. The Committee on Economic, Social and Cultural Rights expressed concern about reports that public and private financial institutions under the country's jurisdiction continue to hold significant investments in the fossil fuel industry and other carbon-intensive sectors. The Committee recommended that Luxembourg take the necessary measures to reduce public and private investments in the fossil fuel industry and other carbon-intensive sectors and ensure that those measures were compatible with the need to reduce greenhouse gas emissions, including through effective regulatory and transparency measures.<sup>50</sup>

44. The Working Group on Business and Human Rights welcomed the development of two national action plans on business and human rights but was concerned that the current draft expired in December 2022 and hoped that a public announcement on the next national action plan would be made soon.<sup>51</sup> The Working Group remained concerned that the national action plan did not sufficiently address pillar 3 of the Guiding Principles on Business and Human Rights, in particular regarding access to effective remedies for human rights abuses by businesses domiciled in Luxembourg which occurred abroad. The Working Group indicated that the revised national action plan should pay special attention to the financial sector, investment, and pension funds, as well as the climate crisis, with a strong emphasis on corporate accountability.<sup>52</sup>

45. The Committee on Economic, Social and Cultural Rights recommended that Luxembourg adopt a legislative and regulatory framework that required companies domiciled in the country, including those in the financial sector, to exercise human rights due diligence in their operations both in Luxembourg and abroad, and held companies liable for violations of economic, social and cultural rights, including those committed abroad.<sup>53</sup>

46. The Working Group on Business and Human Rights noted with concern that there had been discussions at the European Union level to exclude both the financial sector and the investment fund sector from the European Union's draft Corporate Sustainability Due Diligence Directive, and recommended that Luxembourg include all elements of the financial sector which fell within the scope of the Directive within their national legislation implementing the Directive.<sup>54</sup>

47. The Committee on Economic, Social and Cultural Rights was concerned by reports that, despite the measures taken by Luxembourg, financial flows from third countries that might be connected to illicit activities or be part of tax evasion or tax fraud strategies were still being deposited in financial institutions in Luxembourg through, inter alia, the establishment of shell companies.<sup>55</sup>

## **B. Rights of specific persons or groups**

### **1. Women**

48. The Committee on Economic, Social and Cultural Rights noted the efforts made by Luxembourg to address gender inequalities and the results achieved in reducing the gender pay gap, which was the lowest in the European Union in 2020. However, it remained concerned about the overrepresentation of women in the health-care and social work sector and in teaching, the fact that the rate of low-wage employees was twice as high among women and the fact that four out of five part-time jobs were held by women.<sup>56</sup> The Committee recommended that Luxembourg continue its efforts to close the gender pay gap, and promote increased representation of women at all levels of public administration and in management positions in the private sector.<sup>57</sup>

49. With regard to the relevant recommendations from the third cycle of the universal periodic review,<sup>58</sup> UNESCO observed that the Act of 20 July 2018, approving the Council of Europe Convention on Preventing and Combating Violence against Women and Domestic Violence, introduced into the national legislative framework the prohibition and punishment of female genital mutilation and of coercion or inducement thereto, and strengthened protection for victims of domestic violence and forced marriages.<sup>59</sup>

50. The Human Rights Committee welcomed the various measures taken to combat female genital mutilation but was nevertheless concerned about the lack of convictions and the lack of statistics on the extent of the phenomenon, and stated that Luxembourg should accelerate the adoption of a national strategy on female genital mutilation and continue its awareness efforts for at-risk communities.<sup>60</sup>

51. The Committee on the Elimination of Discrimination against Women recommended that Luxembourg encourage victims to report gender-based violence, including by establishing a specialized 24-hour toll-free helpline; increase the human, technical and financial resources allocated to shelters for women and girls who were victims of gender-based violence and increase the number of shelters; and extend protections against domestic violence, including the possibility of applying for protection orders, to women in de facto unions sharing leases with their abusive partners.<sup>61</sup>

52. The same Committee recommended that Luxembourg raise awareness of the discriminatory nature of sexual harassment, with a view to stopping it; and specifically criminalize sexual harassment and provide for adequate sanctions.<sup>62</sup>

### **2. Children**

53. The Committee on the Rights of the Child took note of Bill No. 6568 aimed at eliminating the concepts of legitimate and illegitimate parentage but remained concerned that the distinction between children of married and unmarried parents continued to exist. It recommended that Luxembourg take all measures necessary to expedite the adoption of Bill No. 6568 and to ensure that there was no discrimination against children of unmarried parents.<sup>63</sup> The Committee on Economic, Social and Cultural Rights made similar observations and recommendations.<sup>64</sup>

54. The Committee on the Rights of the Child noted Bill No. 7674 on arranging access to information on an individual's origins following adoption or conception through egg or sperm donation. However, the Committee was concerned about information that the draft law remained very vague and that it was unclear which service would be responsible for managing and storing the data that would subsequently allow the child a right of access to that data concerning his or her origins.<sup>65</sup>

55. The Committee on the Rights of the Child recommended that Luxembourg introduce an explicit prohibition of all forms of corporal punishment, however mild, in law, in all settings, including for children between the ages of 14 and 18 years, and abolish in its legislation the possibility of light forms of violence; promote positive, non-violent and participatory forms of child-rearing and discipline; and develop a comprehensive national strategy to prevent and address all forms of violence against children, especially in the family.<sup>66</sup>

56. The same Committee recommended that Luxembourg establish specialized mechanisms and procedures for the identification of children at risk of becoming victims of the offences covered in the Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography, in particular among children in vulnerable situations, and ensure that the national legislation provided for definitions of "sexual exploitation of children in prostitution" and "commercial distribution of child abuse materials" in accordance with the Optional Protocol.<sup>67</sup>

### **3. Persons with disabilities**

57. The Committee on the Rights of the Child was concerned that girls with disabilities remained at high risk of multiple forms of discrimination and of being victims of gender-based violence, that there were gaps in the availability of qualified and trained personnel, and that the creation of reasonable accommodation was a lengthy process, with very complicated administrative procedures.<sup>68</sup>

58. The Committee on the Rights of the Child urged Luxembourg to adopt a human rights-based approach to disability and set up a comprehensive strategy for the inclusion of children with disabilities; take measures to detect, prevent and combat violence against children, especially girls with disabilities; take immediate measures to ensure that children with disabilities had access to health care, including early detection and intervention programmes, and to specialists such as speech therapists, child psychiatrists who established diagnoses, psychomotor therapists and occupational therapists; and take all measures necessary to provide children with disabilities with reasonable accommodation in all settings.<sup>69</sup>

59. The Human Rights Committee stated that Luxembourg should 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 should ensure that employers complied 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.<sup>70</sup>

### **4. Lesbian, gay, bisexual, transgender and intersex persons**

60. The Committee on Economic, Social and Cultural Rights, concerned about the disadvantage experienced by same-sex couples with regard to recognition of filiation, recommended that Luxembourg take the necessary measures to establish a legal framework for filiation that fully respected the principle of non-discrimination, including non-discrimination against same-sex couples.<sup>71</sup>

61. While welcoming the fact that a draft bill was being prepared on the right to self-determination of intersex children, the Human Rights Committee noted with concern that children with variations in sexual development at birth sometimes underwent invasive and irreversible medical procedures, and stated that Luxembourg should strengthen the measures to end the performance of irreversible medical acts, especially surgical operations, on intersex children who were not yet capable of giving their free and informed consent, except in cases where such interventions were absolutely necessary for medical reasons and in that regard should expedite the adoption of a law to that effect.<sup>72</sup>



## 5. Migrants, refugees and asylum-seekers

62. The Office of the United Nations High Commissioner for Refugees (UNHCR) highlighted initiatives taken by Luxembourg, including the 2018–2023 governmental programme, noting that those commitments were in line with the long-standing mobilization by Luxembourg in support of refugees at the national, international and European Union levels, as further evidenced in 2022 with the reception of persons fleeing a third country.<sup>73</sup>

63. The Committee on the Elimination of Racial Discrimination was concerned that asylum-seekers had to wait six months after submitting an application before they were granted access to the labour market, and recommended that Luxembourg shorten the six-month period in order to allow asylum-seekers quicker access to the labour market.<sup>74</sup>

64. UNHCR noted that Luxembourg did not detain persons who applied for asylum at the border. Asylum-seekers detained in Luxembourg mainly belonged to two categories: asylum-seekers coming under the Dublin III procedure, and rejected asylum-seekers pending their return to their country of origin or a safe third country. The 2015 asylum law provided for the possibility of detaining children as a measure of last resort and as briefly as possible when it had been established that less coercive measures could not be applied effectively. That issue had been acknowledged in the governmental programme for 2018–2023, which provided for the creation of a specific structure for the detention of women, families and vulnerable persons, and the subsequent amendment of the legislation on detention to guarantee that children would no longer be placed in the detention centre by the airport. However, to date, the detention of children in this centre has continued, due to the absence of a specific detention structure.<sup>75</sup>

65. UNHCR recommended that Luxembourg amend its legislation in order to end the use of immigration detention for children, irrespective of their legal status, and ensure that alternatives to detention were enshrined in law and implemented in practice.<sup>76</sup>

66. The Committee on the Rights of the Child was concerned that the advisory commission responsible for determining the best interests of the child in the context of the return of unaccompanied children was not independent or neutral, and recommended that Luxembourg strengthen the capacity of the authorities to determine and apply the best interests of the child in asylum- and migration-related procedures, including in “Dublin” cases; and establish a special status for the benefit of unaccompanied children who did not apply for international protection.<sup>77</sup> UNHCR highlighted the importance of decisions concerning the welfare of a child being taken by an independent child protection body with the expertise and training to consider the best interests of the child, and avoid the risk of a conflict between the child’s best interests and national migration policy.<sup>78</sup>

67. While noting measures adopted to improve reception conditions, UNHCR observed that the quality of reception conditions could differ greatly from one reception centre to another, and recommended that Luxembourg improve to the extent possible the quality of reception conditions made available to asylum-seekers, including by hiring additional staff, and ensuring that temporary reception centres remained used for short stays of asylum-seekers.<sup>79</sup>

68. UNHCR noted improvements related to family reunification in Luxembourg but indicated that certain challenges remained. According to the Law of 29 August 2008 on free circulation and immigration, beneficiaries of international protection were subjected to a deadline of six months following their positive asylum decision to submit their application for family reunification.<sup>80</sup>

69. UNHCR recommended that Luxembourg facilitate the reunification of families of beneficiaries of international protection in order to better fulfil its obligations, by, inter alia, not applying the strict time limits for requesting family reunification under the “more favourable conditions” set out in the 2008 immigration legislation, and accepting completion of the family reunification application after the time limit had elapsed. It also recommended allowing separated children – cared for by family members or friends – who applied for family reunification with their parents, to be exempted from more demanding requirements.<sup>81</sup> The Human Rights Committee made a similar recommendation.<sup>82</sup>

## 6. Stateless persons

70. UNHCR indicated that while Luxembourg was party to the 1954 Convention relating to the Status of Stateless Persons, and the Minister of Immigration and Asylum was competent to determine whether a person was stateless, a statelessness determination procedure was not specified in legislation.<sup>83</sup> The Human Rights Committee stated that Luxembourg should adopt legislation regulating the procedure to determine the status of statelessness and introduce a residence permit for persons recognized as stateless in order to grant them the rights guaranteed by the 1954 Convention.<sup>84</sup>

### Notes

- 1 [A/HRC/38/11](#), [A/HRC/38/11/Add.1](#) and [A/HRC/38/2](#).
- 2 [CCPR/C/LUX/CO/4](#), para. 4 (a)–(b). See also [CRC/C/LUX/CO/5-6](#), para. 3.
- 3 See <https://www.ohchr.org/sites/default/files/documents/issues/business/statements/2022-12-08/EoM-Visit-Luxembourg-Dec2022-English.pdf>, p. 7.
- 4 [CERD/C/LUX/CO/18-20](#), para. 27. See also [CRC/C/LUX/CO/5-6](#), para. 34 (a).
- 5 [CCPR/C/LUX/CO/4](#), para. 6.
- 6 [CRC/C/LUX/CO/5-6](#), para. 6.
- 7 See <https://www.ohchr.org/sites/default/files/2022-02/VoluntaryContributions2022.pdf>; OHCHR, *United Nations Human Rights Report 2021*, pp. 111, 113–114, 126, 131, 134, 136, 480, 494, 533 and 543; OHCHR, *United Nations Human Rights Report 2020*, pp. 107–108, 121, 135, 139, 141, 185 and 193; OHCHR, *United Nations Human Rights Report 2019*, pp. 90, 92, 102, 124, 164 and 174; OHCHR, *United Nations Human Rights Report 2018*, pp. 76, 78, 87, 109–110, 141 and 158; and OHCHR, *United Nations Human Rights Report 2017*, pp. 79, 83 and 86.
- 8 See <https://www.ohchr.org/en/hr-bodies/upr/upr-implementation>.
- 9 [E/C.12/LUX/CO/4](#), para. 19 (a).
- 10 [CERD/C/LUX/CO/18-20](#), paras. 7–9; and [CCPR/C/LUX/CO/4](#), paras. 7–8.
- 11 [E/C.12/LUX/CO/4](#), para. 9. See also [CEDAW/C/LUX/CO/6-7](#), paras. 21–22.
- 12 [CRC/C/LUX/CO/5-6](#), para. 37.
- 13 [CERD/C/LUX/CO/18-20](#), paras. 11–12.
- 14 *Ibid.*, para. 16.
- 15 *Ibid.*, paras. 21–22.
- 16 *Ibid.*, para. 17.
- 17 *Ibid.*, para. 18 (a).
- 18 [E/C.12/LUX/CO/4](#), para. 7.
- 19 [CCPR/C/LUX/CO/4](#), paras. 21–22.
- 20 [CEDAW/C/LUX/CO/6-7](#), para. 50 (c).
- 21 [CCPR/C/LUX/CO/4](#), paras. 13–14.
- 22 *Ibid.*, paras. 7–8. See also [CEDAW/C/LUX/CO/6-7](#), paras. 17 (b) and 18 (b); [CERD/C/LUX/CO/18-20](#), paras. 23–24; and [E/C.12/LUX/CO/4](#), paras. 18–19.
- 23 [CERD/C/LUX/CO/18-20](#), para. 24.
- 24 [CEDAW/C/LUX/CO/6-7](#), paras. 17 (a) and (c) and 18 (c).
- 25 See <https://www.ohchr.org/sites/default/files/documents/issues/business/statements/2022-12-08/EoM-Visit-Luxembourg-Dec2022-English.pdf>, p. 5.
- 26 [E/C.12/LUX/CO/4](#), paras. 30 (b) and 31 (b).
- 27 [CRC/C/LUX/CO/5-6](#), para. 31 (a)–(b) and (d)–(f).
- 28 [CCPR/C/LUX/CO/4](#), paras. 23–24.
- 29 UNESCO submission for the universal periodic review of Luxembourg, para. 4.
- 30 [CCPR/C/LUX/CO/4](#), paras. 25–26.
- 31 [CEDAW/C/LUX/CO/6-7](#), paras. 35–36.
- 32 *Ibid.*, para. 52 (a).
- 33 *Ibid.*, para. 32 (c)–(d) and (f).
- 34 [E/C.12/LUX/CO/4](#), paras. 22–23.
- 35 *Ibid.*, para. 27.
- 36 *Ibid.*, paras. 34–35.
- 37 [CRC/C/LUX/CO/5-6](#), para. 26.
- 38 [E/C.12/LUX/CO/4](#), paras. 32–33.
- 39 *Ibid.*, para. 36 (a) and (c)–(d).
- 40 *Ibid.*, para. 37 (a) and (c)–(d).
- 41 [CRC/C/LUX/CO/5-6](#), para. 24.
- 42 For the relevant recommendations, see [A/HRC/38/11](#), para. 106.109 (State of Palestine), para. 106.111 (Iceland) and para. 106.144 (Egypt).

- <sup>43</sup> UNESCO submission, para. 15.
- <sup>44</sup> [CRC/C/LUX/CO/5-6](#), para. 22 (d).
- <sup>45</sup> *Ibid.*, para. 23 (b).
- <sup>46</sup> [CEDAW/C/LUX/CO/6-7](#), para. 39 (e).
- <sup>47</sup> [E/C.12/LUX/CO/4](#), para. 39 (a)–(b) and (d)–(e). See also [CRC/C/LUX/CO/5-6](#), para. 27 (b)–(d); and [CEDAW/C/LUX/CO/6-7](#), para. 40 (e).
- <sup>48</sup> [CRC/C/LUX/CO/5-6](#), para. 27 (a) and (d).
- <sup>49</sup> [CEDAW/C/LUX/CO/6-7](#), paras. 39 (c)–(d) and 40 (c)–(d).
- <sup>50</sup> [E/C.12/LUX/CO/4](#), paras. 10–11.
- <sup>51</sup> See <https://www.ohchr.org/sites/default/files/documents/issues/business/statements/2022-12-08/EoM-Visit-Luxembourg-Dec2022-English.pdf>, p. 2.
- <sup>52</sup> *Ibid.* See also [E/C.12/LUX/CO/4](#), para. 12. See also [CEDAW/C/LUX/CO/6-7](#), paras. 15–16.
- <sup>53</sup> [E/C.12/LUX/CO/4](#), para. 13.
- <sup>54</sup> See <https://www.ohchr.org/sites/default/files/documents/issues/business/statements/2022-12-08/EoM-Visit-Luxembourg-Dec2022-English.pdf>, p. 3.
- <sup>55</sup> [E/C.12/LUX/CO/4](#), para. 14.
- <sup>56</sup> *Ibid.*, para. 20.
- <sup>57</sup> *Ibid.*, para. 21 (a) and (c). See also [CEDAW/C/LUX/CO/6-7](#), paras. 41–42.
- <sup>58</sup> For the relevant recommendations, see [A/HRC/38/11](#), para. 106.112 (Uruguay), para. 106.113 (Myanmar), para. 106.114 (United States of America) and para. 106.121 (Angola).
- <sup>59</sup> UNESCO submission, para. 17.
- <sup>60</sup> [CCPR/C/LUX/CO/4](#), paras. 15–16 (b).
- <sup>61</sup> [CEDAW/C/LUX/CO/6-7](#), para. 30 (c) and (e)–(f).
- <sup>62</sup> *Ibid.*, para. 44 (b)–(c).
- <sup>63</sup> [CRC/C/LUX/CO/5-6](#), paras. 11–12.
- <sup>64</sup> [E/C.12/LUX/CO/4](#), paras. 30 (c) and 31 (c).
- <sup>65</sup> [CRC/C/LUX/CO/5-6](#), para. 15.
- <sup>66</sup> *Ibid.*, para. 17 (a)–(c).
- <sup>67</sup> *Ibid.*, para. 32 (b)–(c).
- <sup>68</sup> *Ibid.*, para. 22 (a) and (c) and (e).
- <sup>69</sup> *Ibid.*, para. 23 (c) and (e)–(f).
- <sup>70</sup> [CCPR/C/LUX/CO/4](#), para. 10 (a)–(b).
- <sup>71</sup> [E/C.12/LUX/CO/4](#), paras. 30 (a) and 31 (a).
- <sup>72</sup> [CCPR/C/LUX/CO/4](#), paras. 11–12. See also [CRC/C/LUX/CO/5-6](#), para. 19.
- <sup>73</sup> UNHCR submission for the universal periodic review of Luxembourg, p. 1.
- <sup>74</sup> [CERD/C/LUX/CO/18-20](#), paras. 19 (a) and 20 (a).
- <sup>75</sup> UNHCR submission, pp. 1–2. See also [CCPR/C/LUX/CO/4](#), para. 17.
- <sup>76</sup> UNHCR submission, pp. 1–2. See also [CCPR/C/LUX/CO/4](#), para. 18.
- <sup>77</sup> [CRC/C/LUX/CO/5-6](#), paras. 28 (e) and 29 (d)–(e).
- <sup>78</sup> UNHCR submission, p. 2.
- <sup>79</sup> *Ibid.*, pp. 2–3. See also [CERD/C/LUX/CO/18-20](#), para. 19 (c).
- <sup>80</sup> UNHCR submission, pp. 3–4.
- <sup>81</sup> *Ibid.*, pp. 4–5.
- <sup>82</sup> [CCPR/C/LUX/CO/4](#), para. 18 (c)–(d).
- <sup>83</sup> UNHCR submission, p. 3.
- <sup>84</sup> [CCPR/C/LUX/CO/4](#), para. 20.