

**Submission by the United Nations High Commissioner for Refugees
For the Office of the High Commissioner for Human Rights' Compilation Report**

Universal Periodic Review: 3rd Cycle, 29th Session

LUXEMBOURG

I. BACKGROUND INFORMATION

Luxembourg ratified the *1951 Convention relating to the Status of Refugees* in 1953 and acceded to its *1967 Protocol* in 1971. Luxembourg has also ratified the *1954 Convention relating to the Status of Stateless Persons (1954 Convention)* in 1960 and has approved by the Act of 8 March 2017 accession to *inter alia* the *1961 Convention on the Reduction of Statelessness (1961 Convention)*.¹

At the end of 2016, a total of 2046 refugees and 1958 asylum-seekers were living in Luxembourg.² Some 2035 persons lodged an asylum claim in 2016, representing an almost 17 per cent decrease compared to 2015 (2447). The majority of asylum-seekers in 2016 – 51 per cent - originated from five countries, with Syria remaining since 2015 the top country of origin (14 per cent), followed by Albania (11 per cent), Kosovo (10 per cent), Iraq (eight per cent) and Serbia (eight per cent).³ In 2016, the total recognition rate at first instance was 64 per cent (62 per cent refugee recognition rate). The Administrative Tribunal recognition rate was four per cent and no decision out of 107 taken by the Administrative Court granted international protection in 2016. The large scale arrivals since 2015 have put great pressure on the existing reception facilities and on the asylum procedure.

On 18 December 2015, the Government adopted laws on the asylum procedure⁴ and reception conditions of asylum-seekers,⁵ transposing the relevant EU recast Directives. UNHCR provided comments on both draft laws,⁶ the majority of which taken into account in the reception conditions legislation but few were upheld in the asylum procedure legislation. Meanwhile, the Government's response and public perception continues to be positive vis-à-vis asylum-seekers and migrants.

¹The Act of 8 March 2017 also approves accession to the 1997 European Convention on nationality and the 2006 Convention on preventing statelessness in the context of State succession. Luxembourg, Journal Officiel, Memorial A, n°288, page 1, 17 Mars 2017, loi du 8 mars 2017, available at: http://www.chd.lu/wps/PA_RoleDesAffaires/FTSByteServletImpl?path=/export/exped/sepxdata/Mag/0001/159/3595.pdf.

² Information provided by the Luxembourg Ministry of Foreign Affairs and Immigration to UNHCR in the context of UNHCR's annual statistical report.

³ Luxembourg, Ministry of Foreign Affairs and Immigration, *Bilan de l'année 2016 en matière d'asile et d'immigration*, available at: <http://www.gouvernement.lu/6847663/bilan-2016-immigration-et-asile.pdf>.

⁴ *Loi du 18 décembre 2015 relative à la protection internationale et à la protection temporaire*, available at: <http://www.refworld.org/docid/58a6e4f14.html>.

⁵ *Loi du 18 décembre 2015 relative à l'accueil des demandeurs de protection internationale et de protection temporaire*, available at: <http://www.refworld.org/docid/58a6e4f14.html>.

⁶ *Commentaires du Haut Commissariat des Nations Unies pour les réfugiés au sujet du projet de loi n°6779 relatif à la protection internationale et à la protection temporaire*, 4 November 2015, available at: <http://www.refworld.org/pdfid/566132804.pdf>; *Commentaires du Haut Commissariat des Nations Unies pour les réfugiés au sujet du projet de loi n°6775 relatif à l'accueil des demandeurs de protection internationale*, 10 July 2015, available at: <http://www.refworld.org/pdfid/55b0a9bf4.pdf>; *Commentaires du Haut Commissariat des Nations Unies pour les réfugiés au sujet des amendements gouvernementaux au projet de loi n°6775 relatif à l'accueil des demandeurs de protection internationale*, 24 November 2015, available at: <http://www.refworld.org/docid/56fe2bda4.html>.

II. ACHIEVEMENTS AND POSITIVE DEVELOPMENTS

Positive developments linked to 2nd cycle UPR recommendations

Linked to 2nd cycle UPR recommendation no. 117.16: “Take the necessary measures to ensure that all persons born in Luxembourg obtain a nationality if otherwise they would become stateless and regardless of the immigration status of their parents (Mexico).”⁷

Luxembourg adopted a law on nationality on 8 March 2017⁸ which facilitates acquisition of Luxembourg nationality by reducing the residency requirement from 7 to 5 years for all applicants, and which also introduces a facilitated procedure for acquisition of nationality open to beneficiaries of international protection and stateless persons. The law also contains many articles aimed at preventing statelessness at birth as well as in relation to adoption, renunciation and deprivation of nationality. Luxembourg adopted on the same day a law approving accession to *inter alia* the 1961 Convention, an accession pledged by Luxembourg at UNHCR’s 2011 Ministerial Meeting and which UNHCR had long advocated for.⁹ UNHCR welcomes these developments which illustrate Luxembourg’s strong and continued commitment to prevent and reduce statelessness.

Linked to 2nd cycle UPR recommendation no. 118.54: “Consider adopting a structural resettlement programme for asylum seekers (Poland).”

As foreseen in the Luxembourg governmental programme for 2013-2018, an annual resettlement programme for 15-20 refugees started in 2014 which has so far focused on Syrian refugees. In total, when combining ad-hoc pledges, annual resettlement quota and pledges made under the 2016 EU-Turkey statement, Luxembourg has resettled 172 refugees since 2014 (all Syrians). UNHCR commends the adoption of an annual resettlement programme and encourages Luxembourg to ensure that it meets its annual quota in addition to pledges made under the 2016 EU-Turkey statement, which would allow resettlement of other refugee populations.

III. KEY PROTECTION ISSUES, CHALLENGES AND RECOMMENDATIONS

Challenges linked to outstanding 2nd cycle UPR recommendations

Issue 1: Fair and efficient asylum procedures

Linked to 2nd cycle UPR recommendation no. 117.15: “Take the necessary measures to adapt its asylum system to the new requirements of international protection (Mexico).”

While Luxembourg has a solid asylum system and the new legislation on the asylum procedure adopted on 18 December 2015 contains positive aspects such as the reduction of the duration of the procedure to 6 months (albeit with exceptions)¹⁰, special guarantees to asylum-

⁷ All recommendations made to Luxembourg during its 2nd cycle UPR can be found in: “Report of the Working Group on the Universal Periodic Review of Luxembourg” (25 March 2013), A/HRC/23/10, available at: <http://ohchr.org/EN/HRBodies/UPR/Pages/LUSession15.aspx>.

⁸ Luxembourg, Journal Officiel, Memorial A, n°289, page 1, 17 Mars 2017, loi du 8 mars 2017, available at: http://www.chd.lu/wps/PA_RoleDesAffaires/FTSByteServingServletImpl?path=/export/exped/sexdpata/Mag/0001/159/3594.pdf. The law will enter into force on 1 April 2017.

⁹ UNHCR submitted comments on both laws in December 2016, the majority of which were taken into account by the Luxembourg Parliament in January 2017.

¹⁰ The procedure may be extended by a maximum of 9 months if: the case raises complex factual or legal questions; there is a large number of simultaneous asylum requests or if the delay can be clearly attributed to the asylum

seekers with specific needs including children and training for refugee status determination (RSD) staff, there is still room for improvement.

The increase in asylum requests since 2015 has placed serious strains on all stages of the asylum procedure. The Immigration Directorate has hired new staff since 2015 and intends to hire more in 2017. Although Luxembourg treats cases of asylum-seekers from the Balkans in an accelerated manner, their recent increase has led to the announcement of the creation of an “ultra-accelerated” asylum procedure lasting 8 days dedicated for these claims.¹¹

Concerns regarding RSD in first instance very often relate to the lack of information provided to the asylum-seeker during the procedure, especially regarding processing delays, which can be a source of tension and frustration.¹²

Further concerns have been noted regarding unaccompanied children, in particular delays in appointing a lawyer and/or a guardian. Designation of a guardian is also not guaranteed for a child expected to reach majority age before a first instance decision, while there remains a lack of a comprehensive age assessment which would consider not only the physical appearance but also the psychological maturity of the person.

Recommendations:

UNHCR recommends that the Government of Luxembourg:

- a) Ensure that quality decisions on asylum requests are issued within a reasonable time, despite the recent increase in the number of asylum-seekers;
- b) Improve communication and transparency with asylum-seekers on the processing of their asylum claims;
- c) Develop a formal mechanism to determine the best interests of the child as part of a comprehensive child protection system, which would include the speedy appointment of a lawyer and a guardian, the consideration of anyone below the age of 18 as a child, and the adoption of a holistic approach regarding age assessment; and
- d) Ensure that the “ultra-accelerated” asylum procedure for asylum-seekers from Balkan countries is fair and efficient with an individual assessment of the claim and the necessary procedural safeguards in place, including the possibility to appeal any negative decision.

Issue 2: Reception conditions of asylum-seekers

Linked to 2nd cycle UPR recommendation no. 118.70: “Consider allocating adequate resources and staff to meet the challenge posed by the increasing number of asylum applications as part of its efforts to improve the process of consideration and reception of migrants and asylum-seekers (Thailand).”

seeker’s failure to fulfil his/her obligations. On an exceptional basis in circumstances duly justified, an additional delay of 3 months maximum can be foreseen if deemed necessary to ensure an adequate and complete assessment of the asylum request. Furthermore, the law also foresees the possibility to further delay the procedure when a decision cannot be reasonably expected to be taken in the prescribed timeframe due to an uncertain situation in the country of origin which should be temporary. In any case, the law foresees that the total duration of the procedure cannot exceed 21 months.

¹¹ Specific details on this procedure have yet to be revealed.

¹² As noted *supra* in footnote 10, while the law foresees a 6 months delay for treatment of an asylum claim, exceptions can allow an extension of up to maximum 21 months, and there have been reports of waiting periods of several months or years for a first decision or first hearing, as recently reported by the Ombudsman in her annual report for 2016, *Rapport annuel d’activité*, 2016, p. 29: <http://www.ombudsman.lu/userfiles/files/Rapports%20annuels/RA%202016.pdf>.

Following the 2015 influx, Luxembourg approved an emergency reception plan of asylum-seekers which increased by 1000 the number of places available and which strengthened the national reception and integration agency staff (OLAI), which now manages directly or through contracted partner NGOs 93 structures offering 4000 accommodation places. Luxembourg has also actively been liaising with municipalities in order to identify new construction sites. Despite these efforts, OLAI has expressed concerns in early 2017 about soon reaching a quasi-saturation point as the occupation rate had reached 85 per cent of its full capacity, with around one third of residents being recognised refugees unable to find housing on the private market, rejected asylum-seekers who cannot be returned to their country of origin, or asylum-seekers falling under the Dublin III regulation. As a result, many asylum-seekers have been staying for several months in emergency reception centres foreseen for short stays and tensions have arisen. In order to vacate reception places, one reception centre is expected to be transformed in a semi-open return structure for rejected asylum-seekers from the Balkans having gone through an ultra-accelerated asylum procedure and Dublin “returnees”.

Moreover, the quality of reception conditions can differ greatly from one centre to another and UNHCR continues to advocate for improvement of reception conditions in all centres, with more space, recreational activities, supervised and trained staff and interpreters. Additionally, in spite of encouraging new legislation on reception conditions adopted on 18 December 2015 - which notably reduces from 9 to 6 months the delay for an asylum-seeker to be granted access to work following the introduction of his/her asylum claim; which includes multiple references to the need to ensure the best interests of the child at all stages of the procedure and which strengthened OLAI’s capacity by increasing the number of staff and providing them with appropriate training - identification and response to vulnerabilities remains difficult.

A promising “integration project” once envisaged in the context of the adoption of the 18 December 2015 law on reception conditions, which would have increased the monthly allowance¹³ in exchange of undertaking integration-related activities, was abandoned.

Recommendations:

UNHCR recommends that the Government of Luxembourg:

- a) Improve to the extent possible the quality of reception conditions made available to asylum-seekers, including by hiring additional and trained staff, establishing a framework for the identification and response to asylum-seekers with specific needs, and by ensuring that temporary reception centers remain used as such; and
- b) Consider a re-examination of the once envisaged “integration project” which would allow asylum-seekers to be more autonomous and less dependent on OLAI’s staff.

Issue 3: Detention of children

Linked to 2nd cycle UPR recommendation no. 118.39: “Take measures to reduce the detention time for foreigners under expulsion order as much as possible (Norway).”

Luxembourg does not detain persons who apply for asylum at the border. Asylum-seekers detained in Luxembourg mainly belong to two categories: asylum-seekers in the Dublin procedure and rejected asylum-seekers pending their return in their country of origin or a third safe country. While families with children could only be held for a maximum of 72 hours, a new legislation adopted in March 2017 extends this limit to 7 days.¹⁴ UNHCR’s position is that

¹³ In 2012, the monthly allowance granted to asylum-seekers was reduced and a system of coupons was established for their purchases, which has been assessed by the NGOs as being conducive to dependency and too complex.

¹⁴ *Projet de loi n° 6992, portant modification de la loi du 28 mai 2009 concernant le centre de rétention*, art. 6(3), available at:

children should not be detained for immigration related purposes, irrespective of their legal/migratory status or that of their parents, and detention is never in their best interests.¹⁵

Recommendations:

UNHCR recommends that the Government of Luxembourg:

- a) Amend the provision allowing for maximum detention duration of 7 days for families with children and not detain children for immigration related purposes, irrespective of their legal/migratory status or that of their parents; and
- b) Consider alternatives to detention for all persons with specific needs.

Issue 4: Family reunification

Linked to 2nd cycle UPR recommendation no. 118.44: “Ensure that family reunification takes place without undue delay (Bangladesh).”

While improvements related to family reunification are to be noted, such as the recognition of ICRC travel documents and the possibility to issue laissez-passer to foreigners, some concerns related to the duration of the procedure and difficulties proving a family relationship remain. Family reunification can only be granted to the nuclear family (spouse, minor and single children, as well as parents of an unaccompanied child) and may be granted under conditions to dependent parents¹⁶ or adult children¹⁷ of an adult refugee and the legal guardian or any other family member of an unaccompanied child¹⁸. In addition, beneficiaries of international protection only have three months following their positive asylum decision to submit their application for family reunification in order to receive exemption from more demanding conditions (i.e. a stable income, adequate housing and health insurance).

Recommendations:

UNHCR recommends that the Government of Luxembourg ensure that family reunification of beneficiaries of international protection takes place without undue delay and consider allowing a broader definition of eligible family members as well as extending the three months delay for submitting an application.

Issue 5: Stateless persons

Linked to 2nd cycle UPR recommendation no. 118.5: “Establish a formal procedure to improve compliance with the State obligation to protect stateless persons, in line with the Convention relating to the Status of Stateless Persons of 1954 (Guatemala).”

There is no specific legislation on statelessness despite the fact that Luxembourg is a party to the *1954 Convention*. The Minister of Immigration and Asylum is the competent authority to

http://chd.lu/wps/PA_RoleDesAffaires/FTSByteServingServletImpl?path=/export/exped/sexdpata/Mag/134/604/163033.pdf

¹⁵ UNHCR's position regarding the detention of refugee and migrant children in the migration context, January 2017, available at: <http://www.refworld.org/docid/5885c2434.html>.

¹⁶ The parent must be a first degree relative in the direct ascending line of the applicant or his/her spouse and must be dependent on the applicant and lack the necessary family support in his/her country of origin, *Loi du 29 août 2008 portant sur la libre circulation des personnes et l'immigration*, art. 70(5)(a), 29 August 2008, available at: <http://www.refworld.org/docid/48ca6e0b2.html>.

¹⁷ The adult child of the applicant or his/her spouse must be single and objectively unable to satisfy his/her needs by reason of his/her state of health, *Loi du 29 août 2008 portant sur la libre circulation des personnes et l'immigration*, art. 70(5)(b), 29 August 2008, available at: <http://www.refworld.org/docid/48ca6e0b2.html>.

¹⁸ The unaccompanied child must either not have any relative in the direct ascending line or they cannot be found, *Loi du 29 août 2008 portant sur la libre circulation des personnes et l'immigration*, art. 70(5)(c), 29 August 2008, available at: <http://www.refworld.org/docid/48ca6e0b2.html>.

determine whether a person is stateless. While the administrative instructions on how to apply for statelessness status have been clarified, notably through the elaboration of a specific application form,¹⁹ there is no dedicated legislative procedure for the determination of statelessness in Luxembourg.

Recommendations:

UNHCR recommends that the Government of Luxembourg introduce a formal statelessness determination procedure to better comply with protection obligations under the *1954 Convention Relating to the Status of Stateless Persons*.

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¹⁹ See: <http://www.guichet.public.lu/citoyens/catalogue-formulaires/immigration/apatriide/demande-statut-apatriide/formulaire-demande-FR.pdf>.

ANNEX

Excerpts of relevant Recommendations from the 2nd cycle Universal Periodic Review, Concluding Observations from UN Treaty Bodies and Recommendations of Special Procedures mandate holders

LUXEMBOURG

We would like to bring your attention to the following excerpts from the 2nd cycle UPR recommendations, UN Treaty Monitoring Bodies' Concluding Observations, and recommendations from UN Special Procedures mandate holders' reports relating to issues of interest and persons of concern to UNHCR with regard to Luxembourg.

I. Universal Periodic Review (Second Cycle – 2012)

Recommendation ²⁰	Recommending State(s)	Position ²¹
Refugees and asylum-seekers		
116.21 Further strengthen measures to grant foreign children and children of asylum-seekers equal access to the same standards of services in the field of education	Montenegro	Supported
117.15 Take the necessary measures to adapt its asylum system to the new requirements of international protection	Mexico	Supported
118.29 Continue its efforts to end sexual abuse and sexual exploitation of children, in particular of unaccompanied asylum-seeking children	Sri Lanka	Supported
118.44 Ensure that family reunification takes place without undue delay	Bangladesh	Supported
118.54 Consider adopting a structural resettlement programme for asylum seekers	Poland	Supported ²²
118.56 Consider the development of a system of reception centres where asylum seekers with serious medical conditions and disabilities can benefit from the presence of dedicated expert staff	Poland	Supported

²⁰ All recommendations made to Luxembourg during its 2nd cycle UPR can be found in: "Report of the Working Group on the Universal Periodic Review of Luxembourg" (25 March 2013), A/HRC/23/10, available at: <http://ohchr.org/EN/HRBodies/UPR/Pages/LUSession15.aspx>.

²¹ Luxembourg's views and replies can be found in: *Addendum* (23 May 2013), A/HRC/23/10/Add.1, available at: <http://ohchr.org/EN/HRBodies/UPR/Pages/LUSession15.aspx>.

²² **Addendum:** "Luxembourg is currently studying the issue of resettlement."

118.65 Ensure the protection of refugees, migrants and their families in full compliance with international standards	Belarus	Supported ²³
118.66 Take the necessary measures to ensure that asylum seekers have the necessary support in the temporary accommodation centres for foreigners and incorporate in the legislation the current good practice of having an open regime for unaccompanied minors and persons in situation of vulnerability, as recommended by OHCHR	Spain	Supported ²⁴
118.70 Consider allocating adequate resources and staff to meet the challenge posed by the increasing number of asylum applications as part of its efforts to improve the process of consideration and reception of migrants and asylum seekers	Thailand	Supported
118.73 Continue to take all necessary measures to preserve an overall positive image of refugees and asylum-seekers	Palestine	Supported
118.75 Consider the possibility of increasing the rate of accepted asylum applications, reducing the administrative and regulatory obstacles that prevent the acceptance of a higher number of asylum applications; and also consider increasing the acceptance of applications for solidarity resettlement of refugees recognized as entitled to this status, in particular those who arrive from the South	Ecuador	Noted ²⁵
Trafficking in persons		
116.11 Continue to strengthen the capacity for action in the fight against human trafficking, and in combating discrimination and promoting integration	Romania	Supported
118.28 Continue with its efforts undertaken to fight against trafficking of persons	Argentina	Supported
118.31 Strengthen its preventative anti-trafficking measures and continue to provide support services to victims, particularly for women and children	Australia	Supported
118.32 Intensify its efforts to combat human trafficking and sexual exploitation, in particular women and children, in a comprehensive manner	Cambodia	Supported

²³ **Addendum:** “Luxembourg is of the view that recommendations 118.4, 118.22, 118.53, 118.65, 118.70 and 118.71 have already been implemented.”

²⁴ **Addendum:** “The main initial reception centre for applicants for international protection has a psychologist on staff, paid for by the Government. In addition to this psychological care provided, any applicant can use the services offered by the various psychiatry professionals operating outside the hospital setting. [...] Applicants for international protection are housed in specialized shelters for the duration of the procedure. During this period, they have access to the forms of aid described in the national report.”

²⁵ **Addendum:** “All asylum applications are examined individually. If the legal conditions have been met, the person is granted international protection.”

118.33 Further strengthen its national policies to combat sexual exploitation and trafficking in human beings	Cyprus	Supported
118.34 Implement the regulations of the Act of 8 May 2009 on assistance to and the protection and security of victims of human trafficking	Canada	Supported
118.35 Intensify strategies aimed at combating trafficking in women, especially those aimed at the sex trade	Holy See	Supported
118.36 Take effective measures to implement the National Plan of Action (NPA) adopted in 1996, to combat and prevent Child Prostitution, Child Pornography and also trafficking of children for commercial sexual exploitation	Iran	Supported
118.63 Ensure that all victims of trafficking, regardless of their immigration status, have access to care, rehabilitation and assistance programmes	Mexico	Supported
Access to rights		
116.20 Continue its efforts in ensuring that education system will benefit all groups in the society regardless their backgrounds	Indonesia	Supported
118.14 Continue efforts to bridge inequalities in employment on account of nationality	Sri Lanka	Supported
118.50 Strengthen measures aimed at improving equal opportunities in the employment area, especially for foreigners	Libya	Supported
118.51 Consider instituting programmes to further facilitate migrants' access to basic social services and just conditions of work	Philippines	Supported ²⁶
118.53 Ensure that foreign nationals residing in Luxembourg fully enjoy social benefits like other citizens of Luxembourg do	Burundi	Supported ²⁷
118.71 Take necessary steps to provide basic rights for migrants and asylum seekers	Iran	Supported ²⁸
Sexual and gender-based violence		
118.26 Continue efforts to prevent and eliminate all forms of violence against women	Senegal	Supported

²⁶ **Addendum:** "Generally speaking, all citizens, including foreign nationals legally settled in Luxembourg, enjoy the same rights with regard to employment and work, as well as benefits and welfare payments."

²⁷ **Addendum:** "Luxembourg is of the view that recommendations 118.4, 118.22, 118.53, 118.65, 118.70 and 118.71 have already been implemented."

²⁸ **Addendum:** "Luxembourg is of the view that recommendations 118.4, 118.22, 118.53, 118.65, 118.70 and 118.71 have already been implemented."

118.27 Continue efforts aimed at ending the exploitation of children through child prostitution and trafficking, and strengthen measures to fight violence against women and domestic violence	Libya	Supported
Racism, racial discrimination, xenophobia and related intolerance		
116.14 Continue efforts regarding the fight against racism, racial discrimination, xenophobia and associated intolerance	Algeria	Supported
118.11 Strengthen measures aimed at combating discrimination against women and children, in particular those belonging to vulnerable groups and minorities	Algeria	Supported
118.15 Carry out information campaigns to prevent racist and xenophobic acts	Costa Rica	Supported
118.17 Step up its efforts to fight against certain forms and manifestations of racism and xenophobia, urge high-ranking State officials to take clear position against these scourges, and take necessary measures to accelerate implementation of the law on the reception and the integration of foreigners	Tunisia	Supported
118.18 Strengthen its appropriate and long-term measures against all forms of discrimination, intolerance and trafficking in persons, especially those targeting vulnerable groups	Viet Nam	Supported
118.20 Continue efforts to combat discrimination through strengthening of national mechanisms	Nepal	Supported
118.22 Take legal measures in order to combat racist, xenophobic and Islamophobic acts and their manifestations	Iran	Supported ²⁹
118.25 Conduct information campaigns so as to familiarize the public and minority groups on the law and legislation relating to racial discrimination	Malaysia	Supported
118.52 Increase its efforts to combat racism, intolerance and discrimination through awareness-raising, information, education and follow-up campaigns addressed to the whole society, and adopt effective measures to combat unemployment among migrants, refugees and asylum seekers	Ecuador	Supported
118.67 Take the necessary measures to eliminate all forms of discrimination against the immigrant population and step up its efforts to reduce the level of school failure among this population, especially through the creation of two educational tracks, one in French and other Romance languages and one in Germanic languages	Spain	Supported

²⁹ **Addendum:** “Luxembourg is of the view that recommendations 118.4, 118.22, 118.53, 118.65, 118.70 and 118.71 have already been implemented.”

118.69 Continue with its fight against discrimination suffered by minorities	Argentina	Supported
SOGI		
118.46 Adopt and comprehensively implement the draft law on the marriage among same-sex persons	Netherlands	Supported
Right to a nationality		
117.16 Take the necessary measures to ensure that all persons born in Luxembourg obtain a nationality if otherwise they would become stateless, and regardless of the immigration status of their parents	Mexico	Supported
Stateless persons		
118.5 Establish a formal procedure to improve compliance with the State obligation to protect stateless persons, in line with the Convention relating to the Status of Stateless Persons of 1954	Guatemala	Supported ³⁰
Detention		
118.6 Endeavour to enshrine in its legislation the good current practice of not placing unaccompanied minors in detention (State of Palestine)	Palestine	Noted ³¹
118.39 Take measures to reduce the detention time for foreigners under expulsion order as much as possible	Norway	Supported
118.41 Put in place alternative solutions to the detention of migrants	Togo	Supported
118.42 Prohibit in all circumstances the detention of migrants who are still minors	Togo	Noted
Migrants		
118.72 Take all necessary steps to accelerate the enforcement of the law regarding the acceptance and integration of foreigners	Montenegro	Supported
118.74 Take the measures necessary to accelerate the application of the law on the reception and integration of foreigners	Togo	Supported

³⁰ **Addendum:** “With regard to statelessness, a formal procedure is now in place for *de facto* stateless persons, and a procedure for *de jure* stateless persons will soon be finalized.”

³¹ **Addendum:** “No decision to return an unaccompanied minor may be issued, except on the basis of serious public security concerns, or unless the deportation is in the minor’s best interests. If a minor is deported on the basis of serious public security concerns, confinement in the detention centre cannot be ruled out, whereas if the deportation is in the minor’s best interests, he or she must be placed in suitable accommodation outside the detention centre.”

119.2 Ratify the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families	Belarus, Cape Verde, Chile Egypt, Guatemala	Noted
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II. Treaty Bodies

Committee on the Rights of the Child

Concluding Observations, (29 October 2013), [CRC/C/LUX/CO/3-4](#)

Education, including vocational training and guidance

42. The Committee welcomes the efforts of the State party in the sphere of education, including education reform, second-chance schools, and the many efforts to face the language challenge with regard to foreign students. However, the Committee is concerned that several groups of children, notably children of migrant workers, asylum-seeking and refugee children continue to have problems related to language, a factor that is reflected in the high drop-out rates either in mainstream schools or alternative educational facilities, and cannot fully enjoy their right to education.

43. Taking into account its general comment No. 1 (2001) on the aims of education, and reiterating its previous recommendations (CRC/C/15/Add.250, paras. 49 and 51), the Committee calls upon the State party to:

- (a) **Continue investing the necessary resources to improve and/or expand schooling facilities and opportunities to ensure the right of all children, including of migrant workers, asylum-seeking and refugee children, to access quality education in the State party;**
- (b) **Continue its efforts to ensure that language does not become an obstacle in education, including through the provision of support classes and welcome units to provide assistance to children and their families in regard to languages.**

Unaccompanied children

44. The Committee notes with concern the lack of available places in special reception centres for unaccompanied children and that a significant number of them leave the State party prior to completing the asylum procedure or to the initial decision of the competent authority. The Committee also notes with concern that the Act of 28 May on the *centres de retention* and the Act of 1 July 2011 implementing the European Union Returns Directive explicitly allow detention of unaccompanied children pending removal from the State party. The Committee is further concerned that the State party has not put in place a mechanism to identify at an early stage children who may have been involved in armed conflict abroad or been victims of crimes, nor a procedure for their protection, recovery and reintegration.

45. The Committee recommends that the State party take into account its general comment No. 6 (2005) on treatment of unaccompanied and separated children outside their country of origin, and:

- (a) **Carry out effective measures to safeguard the rights of unaccompanied children in its territory and that it initiate timely, practical and appropriate measures for preventing the disappearance of unaccompanied asylum-seeking children;**

- (b) **Adopt legislation to prevent the detention of unaccompanied children; and**
- (c) **Consider establishing mechanisms to identify, at an early stage, children among refugees and asylum seekers coming from countries where armed conflicts exist and who may have been involved in armed conflict and/or countries where they may have been exploited by criminal groups, in order to ensure their protection, recovery and reintegration.**

Sexual exploitation, trafficking and abuse

46. The Committee welcomes the fact that the State party facilitates the granting of residence permits to child victims of trafficking as well as its efforts to combat and raise awareness of trafficking in children, sexual exploitation and sex tourism. Nevertheless, the Committee is concerned about the lack of data concerning the phenomenon, and the gaps in the legislation on sexual exploitation of children, including the lack of a clear definition of child pornography and child prostitution in the State party's legislation.

47. **The Committee reiterates its recommendation (CRC/C/15/Add.250, para. 58) to the State party to:**

- (a) **Continue and strengthen its efforts to identify, prevent and combat trafficking in children for sexual and other exploitative purposes;**
- (b) **Undertake data collection and a study to assess the nature and magnitude of the situation in the State party with adequate resources for this task; and to**
- (c) **Ensure that any services facilitated for the prevention, recovery and reintegration of child victims of trafficking take into account the outcome documents adopted at the 1996, 2001 and 2008 World Congresses against Commercial Sexual Exploitation of Children held in Stockholm, Yokohama and Rio de Janeiro respectively;**
- (d) **Expedite the submission of its initial report on the Optional Protocol on the sale of children, child prostitution and child pornography and related matters.**

Follow-up to the Committee's previous concluding observations and recommendations on the State party's initial report under the Optional Protocol on the involvement of children in armed conflict (2007)

48. The Committee recalls its previous concluding observations on the State party's initial report under the Optional Protocol on the involvement of children in armed conflict (CRC/C/OPAC/LUX/CO/1) and requests that the State party provide follow-up information in its next periodic report under the Convention on the efforts undertaken to:

- (a) **Formally criminalize the recruitment of children in hostilities; and**
- (b) **Establish extraterritorial jurisdiction for the violation of the provisions of the Optional Protocol on the involvement of children in armed conflict regarding the recruitment and involvement of children in hostilities when they are committed by or against a person who is a citizen of, or has other links with, the State party, as required by article 4 of the Optional Protocol.**

52. The Committee recommends that the State party, in order to further strengthen the fulfilment of children's rights, ratify the core human rights instruments to which it is not yet a party, in particular the Optional Protocol to the Convention on the Rights of

the Child on a communications procedure, and the International Convention on the Rights of All Migrant Workers and Members of Their Families.

Committee on the Elimination of Racial Discrimination

Concluding Observations, (13 March 2014), [CERD/C/LUX/CO/14-17](#)

Ethnic composition of the population

6. The Committee takes note of the fact that, for philosophical and historical reasons, the State party does not collect ethnic data on populations who live on its territory. Notwithstanding, the Committee notes with concern the absence of any information in the State party's report on the socioeconomic indicators of different population groups who live on its territory, disaggregated by nationality and ethnic origin (art. 1).

In accordance with paragraphs 10 to 12 of its revised treaty-specific reporting guidelines (CERD/C/2007/1) and taking into account its general recommendation No. 24 (1999) concerning article 1 of the Convention, the Committee recommends that the State party collect and publish comprehensive, reliable and up-to-date statistical data on socioeconomic indicators, disaggregated by nationality and ethnic origin, including on immigrants and refugees, drawn from national surveys or censuses that are based on self-identification, to allow the Committee to better assess how the rights enshrined in the Convention are exercised in Luxembourg.

Definition of racial discrimination

7. The Committee is concerned that the definition of racial discrimination contained in article 1, paragraph 1, of the Act of 28 November 2006 on equal treatment does not include the criteria of national origin, colour or descent, and therefore is not quite consistent with article 1 of the Convention (arts. 1 and 2).

The Committee recommends that the State party revise article 1, paragraph 1, of the Act of 28 November 2006 to bring its legislation fully into line with the Convention.

Institutional mechanisms

9. The Committee regrets that the new National Council for Foreigners has not renewed the mandate of the special standing commission to combat racial discrimination and has replaced it with a commission on integration and equal opportunities, which is likely to reduce the scope of racial discrimination as an issue within the work of the National Council (art. 2).

The Committee encourages the State party to consider reallocating the powers of the former special standing commission on racial discrimination so as to maintain the scope of the issue of racial discrimination.

10. The Committee is concerned that the Luxembourg Reception and Integration Agency does not have the necessary resources, particularly human resources, to carry out its mandate, which may prevent it from working effectively in the event of large flows of migrants (art. 2).

The Committee recommends that the State party undertake a review of the functioning and needs of the Luxembourg Reception and Integration Agency and provide it with sufficient human resources to fulfil its mandate effectively.

Asylum seekers

13. The Committee is concerned that asylum seekers have to wait for nine months after

submitting a request before they are granted access to the labour market (art. 5).

Recalling its general recommendation No. 30 (2004) on discrimination against noncitizens, the Committee recommends that the State party reduce the period of nine months so as to facilitate more rapid access for asylum seekers to the labour market.
Discrimination in respect of employment

14. While noting the information provided by the State party's delegation, the Committee is concerned by the difficulties encountered with regard to labour market access by persons of foreign origin, mainly from countries outside the European Union, and particularly women (art. 5).

In the light of its general recommendations No. 30 (2004) on discrimination against non-citizens and No. 25 (2000) on gender-related dimensions of racial discrimination, the Committee recommends that the State party take all necessary measures to facilitate access to the labour market for persons of foreign, non-European Union origin, particularly women. The Committee also recommends that the State party periodically evaluate the measures introduced to this end, in order to adjust or improve them. Finally, the Committee recommends that the State party promote the effective application of labour legislation, provide judges and lawyers with training on this legislation and inform the Committee of cases related to discrimination in the labour market.

D. Other recommendations

Committee on the Rights of the Child

Concluding Observations, (20 July 2016), [CRC/C/OPSC/LUX/CO/1](#)

Measures adopted to prevent offences prohibited under the Protocol

17. While noting the efforts of the State party to prevent offences prohibited under the Protocol, the Committee is concerned that measures appear fragmented and do not cover all areas of the Protocol. In particular, the Committee is concerned about:

- (a) The limited information on efforts to protect children in vulnerable and marginalized situations, including asylum-seeking and refugee children, unaccompanied children and undocumented children;
- (b) Insufficient provision at existing care facilities for identifying children at risk of becoming victims of offences under the Optional Protocol, and for guaranteeing the protection of victims, especially children outside the family environment;
- (c) The lack of a legal framework to ensure that Internet-hosting services registered in the State party speedily remove illegal child pornographic content.

18. The Committee recommends that the State party increase its preventive measures to cover all areas of the Optional Protocol and in particular that it:

- (a) **Strengthen its efforts to ensure that prevention efforts also target children in vulnerable and marginalized situations, including asylum-seeking and refugee children, as well as children affected by migration situations;**
- (b) **Establish specialized mechanisms and procedures for the identification of children at risk of becoming victims of the offences covered in the Optional Protocol, in**

particular among children in vulnerable situations, and strengthen prevention programmes and the protection of potential victims;

- (c) Adopt legislative and other measures to ensure the prompt removal of child pornographic content and combat child pornography through other digital means such as peer-to-peer systems, newsgroups and e-mail.**

Dissemination, awareness-raising and training

13. The Committee welcomes the establishment by the State party of mandatory training for schoolchildren on safer Internet use (the BEE Secure initiative) as well as mandatory training on the issue for teachers in the public education system. Nevertheless, the Committee is concerned about the limited concerted training efforts aimed at child protection professionals, including on the rights of the child in general, as well as specialized training for professionals likely to come into contact with victims of offences under the Optional Protocol.

14. The Committee recommends that the State party:

- (a) Strengthen its efforts to systematically make the provisions of the Optional Protocol known and to develop, in close cooperation with relevant government agencies, civil society organizations, the media, the private sector, families, communities and children, awareness-raising and educational programmes covering all issues dealt with in the Optional Protocol and on protection measures provided against such practices in domestic laws;**
- (b) Extend training to all relevant professionals working with and for children, especially judges, prosecutors, social workers, and law enforcement and immigration officials at all levels, and strengthen such training, ensuring that it is systematic and multidisciplinary, and that it includes all the areas covered by the Optional Protocol.**