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## **National report submitted in accordance with paragraph 5 of the annex to Human Rights Council resolution 16/21\***

### **Luxembourg**

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## **I. Introduction**

1. The Grand Duchy of Luxembourg is a signatory to the Universal Declaration of Human Rights and to the majority of the international human rights conventions. Luxembourg is a member of the European Union (EU) and of the Council of Europe and applies the Charter of Fundamental Rights and the European Convention for the Protection of Fundamental Rights and Freedoms (ECHR). By its adhesion to these conventions, Luxembourg undertakes to respect and ensure respect for the rights and freedoms contained in them.

2. Luxembourg is convinced of the need for an approach based on the primacy of international law and on multilateral cooperation among sovereign and equal States in order collectively to strive for peace and development, respect for human rights and the solution of international social, cultural and humanitarian problems.

3. This report focuses on presenting the evolution of the situation since the first UPR cycle and as far as possible avoids repeating information contained in the previous report. It includes an annex describing the follow-up of the recommendations not addressed in this report.

## **II. Thematic analysis**

### **A. Participation in politics, the right to vote and nationality**

4. Voting is mandatory for all electors registered on the electoral roll.<sup>1</sup>

5. In the case of national legislative elections, only nationals of Luxembourg may vote and stand for election.

6. Nationals of Luxembourg and citizens of the EU who have been living for at least two years in Luxembourg may vote in the European elections. Whereas nationals of Luxembourg may stand for election in European elections without any residence requirement, citizens of the EU may stand for election after five years' residence.

7. Foreign nationals who have been living for at least five years in Luxembourg may also vote in local elections. Foreign nationals from within the EU may stand in local elections after five years' residence.

8. The Act of 16 December 2008<sup>2</sup> instituted mandatory consultative commissions on integration (responsible, in particular, for the interests of foreign residents) in all communes. In communes where more than half the residents are foreign, the communal council may decide that the number of Luxembourg and foreign members will be in proportion to the percentage of Luxembourg and foreign inhabitants.

9. As part of the national multi-year plan of action to achieve integration and combat discrimination and in order both to encourage foreigners to participate in the October 2011 local elections and to institute a debate within the host community on the need for foreigners to participate in local elections, the Government, in collaboration with the Association of Luxembourg Cities and Municipalities (Syvicol), organized a large-scale mobilization campaign under the slogan "I can vote". As a result, the number of foreigners registered to vote increased considerably, candidates of foreign nationality were elected in the communes and political parties, foreigners' associations and trade unions realized the importance of participation by foreigners.

10. In the light of the constant increase in the number of foreigners living in Luxembourg, who now represent 43 per cent of the population, the law on acquiring Luxembourg nationality has been amended.

11. After the reforms made in 2001 and in 2006, at the end of 2008 a new act on Luxembourg nationality<sup>3</sup> was adopted, which introduced major changes. The purpose of the act was to adapt legislation to the changes in Luxembourg society during the previous decades and to help to consolidate the integration of foreigners living there.

12. The main innovation of the reform was to accept dual or multiple nationality as a general principle. Consequently, persons who wish to acquire or recover Luxembourg nationality are no longer obliged to give up their nationality of origin, provided the law of the other country also authorizes dual nationality. In addition, the decision voluntarily to acquire a foreign nationality no longer leads to loss of Luxembourg nationality.

13. Moreover, processing of applications has been streamlined and speeded up. More particularly, decision-making authority has been transferred from parliament to the Ministry of Justice, which is in principle required to take a decision within eight months of the submission of the application. An application for review with suspensive effect may also be lodged with the Administrative Tribunal against a refusal to grant nationality, with the possibility of an appeal to the Administrative Court.

14. Finally, the law has introduced a new basis for obtaining the status of Luxembourg national by birth, based on *jus soli*. Any child of foreign parents, one of whom was also born in Luxembourg, shall possess Luxembourg nationality.

## **B. Freedom of expression and freedom of expression in the media**

15. The Constitution guarantees freedom to express one's opinions orally on all matters, together with freedom of the press, although it penalizes crimes committed when exercising those freedoms.

16. The Act of 8 June 2004 on freedom of expression in the media, which introduced a thorough reform of the old law and brought the law into line with the European Convention for the Protection of Human Rights and Fundamental Freedoms and related jurisprudence, was amended in 2010:

- To amend the definition of professional journalist
- To vest the Press Council with legal personality
- To make provision for a commission of appeal on decisions taken by the commission responsible for issuing press cards
- To make unauthorized use of the status of professional journalist liable to criminal prosecution<sup>4</sup>

## **C. Freedom of conscience and religion**

17. The Constitution guarantees freedom of conscience, religion and public worship, subject to respect for public order.

18. At the same time, the Constitution provides for a voluntary system under which certain aspects of relations between the State and a religious community are regulated by agreement; these include payment of the salaries of the clergy from the public purse.

19. These agreements are subject to three conditions; the religious community must:

- Practice a religion that is recognized throughout the world
- Be prepared to respect public order in the Grand Duchy
- Be well established in Luxembourg and supported in the Grand Duchy by a congregation which is sufficiently large and reasonably representative in its religious practice

20. Agreements have thus been reached with eight religious communities. A new development since 2009 has been the advanced stage reached by discussions over an agreement with the Muslim community in Luxembourg. Now that the Muslim community in Luxembourg has succeeded in electing a representative assembly, the Shura, which is recognized by the Government as being representative of the community in Luxembourg, contacts have been resumed on a more concrete basis.

21. After a broad public debate launched by a number of lay associations and taken up in parliament, the Government has recently set up an international group of experts who will submit to parliament a report on future prospects for relations between the State and religious, or even philosophical, non-faith-based communities. In principle, by the end of 2012 the report will produce conclusions on policy which will confirm the status quo, reshape the relations or adapt them to ensure respect for all international agreements.

#### **D. Equality between men and women**

22. Since 2009, political changes affecting equal rights for women and men have focused on promoting equality between women and men and combating discrimination between them in order fully to involve both sexes in all the main spheres of public and private life such as communications and the media, economic activity and work, society, education, the family and the world of relationships.

23. The legal and regulatory framework in Luxembourg prohibits all forms of discrimination between men and women, thus guaranteeing equal rights for both sexes.

24. Efforts in the political sphere to achieve de facto equality are beginning to bear fruit, although there are still many spheres in which challenges have to be taken up by means of action to raise awareness, inform and provide training and supervision in order to bring about a change of mentality throughout society.

25. The level of participation by women in politics and employment is increasing and the gap in earnings between men and women is narrowing. Voluntary programmes designed to increase the number of women on decision-making bodies and ensure a gender balance at all levels of responsibility are being implemented.

26. The progress made will only be sustainable if it goes hand in hand with a discussion on task sharing in other spheres of life and which fully involves men.

27. In 2010, the Grand Duchy enshrined equality between men and women in the order of succession to the throne by introducing an amendment to the House of Nassau Family Pact.<sup>5</sup>

28. The policy framework for equality between men and women is set by the Government programme for 2009–2014, which in particular renews the National Plan of Action for equality between women and men on the basis of the conclusions reached by the evaluation of the first plan for 2006–2008 and the political and legislative commitments made by Luxembourg at the national and international levels for the period from 2009 to 2014. The evaluation provided a positive assessment of the plan, in particular as regards its comprehensiveness, consistency and effort to develop cooperation with the other competent

actors concerned. The Plan for 2009–2014 is being monitored scientifically and will be evaluated at the end of 2013.

29. Responsibility for coordinating policies to achieve equality between men and women remains the responsibility of the Ministry for Equal Opportunity (MEGA). The interministerial committee on equality between men and women provides a platform for interaction between all the ministries and the Ministry for Equal Opportunity. Internal cells competent for gender issues within the different ministries, together with delegates for gender equality who are appointed in both public administrations and private firms ensure the actual implementation of equality between men and women on a daily basis.

30. The Luxembourg Government is implementing a dual strategy in which it is often necessary to promote equality by means of ad hoc measures on behalf of either sex to complement gender mainstreaming.

31. In the field of legislation, it should be mentioned that a review of legislation on domestic violence is currently being discussed in parliament. The basic guidelines for the reform are the need for better protection for victims, consideration for the interests of children and ensuring perpetrators are accountable. Moreover, the change in the legal age for marriage and the abrogation of the period during which a woman may not remarry after the death of her husband or the cessation of cohabitation preceding divorce are also being considered by parliament.

32. In order to encourage a fair sharing of domestic, financial, political and societal responsibilities between men and women beyond the requirements of the law, the Luxembourg Government has implemented the following measures:

- Since 2009, as part of its mission to provide information and raise awareness, three public-information campaigns to bring about a change in mentality, with as their starting point existing male and female stereotypes and their impact in the private and professional spheres<sup>6</sup>
- Since 2006, polls have been carried out at regular two-year intervals to determine the public's opinion and perception of the themes of gender equality and the factors capable of influencing their perception
- "Mega on Tour" meetings have instituted an open dialogue on the theme of gender equality with secondary-education pupils
- The affirmative-action programme to establish de facto equality between men and women is being continued in private-sector firms and has been extended to the public sector
- A "Diversity in Business" (DivBiZ) network which brings together key players in the economic sphere to encourage the presence of both men and women at all levels in firms and the presence of women on boards of management
- The provision to firms of tools such as Logib-Lux<sup>7</sup> and the ABAKABA<sup>8</sup> teaching programme to combat wage inequality
- Partnership with professional associations and organizations to encourage entrepreneurship in women, in particular through the "Female Entrepreneurship Ambassadors Luxembourg" (FEALU) project
- Actions to enhance public awareness of human rights, essentially organized around two themes:
  - Training on the policy of gender equality for all employees recruited by the State and local authorities and

- Campaigns to raise awareness addressing questions relating to stereotyping and topics linked to the lack of equality and respect for integrity, as illustrated by cases of discrimination or domestic violence. Campaigns targeting both the perpetrators and victims of domestic violence were organized annually with a view to preventing, providing assistance and affording protection<sup>9</sup>

- A theme-based approach to all aspects of prostitution

33. Special attention is now given to the role of boys and men in all equality policies.

34. The Government has adopted gender-neutral terminology so as to shift the focus from violence against women and integrate it with the issue of gender-based violence against children and men. It is fully aware that gender-based violence of all forms is a serious phenomenon and that although worldwide it affects mainly women and children, it also affects men. In order to help, provide guidance and strengthen women victims, it is necessary also to involve the men who are responsible for violence by holding them accountable and providing guidance.

## **E. Efforts to combat human trafficking**

35. Since 2009, three new laws have been adopted to complete the legislative instruments to combat human trafficking:

- The Act of 13 March 2009<sup>10</sup> approving the first Palermo Protocol and the Council of Europe Convention on Action against Trafficking. The Act implements one of the recommendations made at the time of the first universal periodic review in 2008 and completes the Criminal Code<sup>11</sup> (C.P.) and the Code of Criminal Procedure (C.I.C.)
- The Act of 8 May 2009 on assistance to and the protection and security of victims of human trafficking, which in particular provides for the establishment of a committee responsible for implementing measures to follow-up and combat trafficking, for coordinating preventive action and for evaluating the phenomenon of trafficking
- The Act of 21 July 2012<sup>12</sup> whereby the second Palermo Protocol was approved

36. With regard to training in this area, the new legislation will make it possible to improve the information and training received by all the players and authorities involved, namely the police, customs and immigration, the judiciary and the social services, on the assumption that such training is crucial for combating human trafficking effectively, especially where the judicial authorities are concerned.

37. An interministerial committee will take over coordination of all the efforts in the field and will ensure that the anti-human-trafficking policy is consistently implemented.

## **F. Rights of the child**

38. Since 2002, Luxembourg has had an independent and neutral committee known as the “Ombuds-Comité fir d’Rechter vum Kand” (ORK), responsible for implementing and promoting the Convention on the Rights of the Child.

39. The new Act on Assistance for Children and Families<sup>13</sup> has instituted the necessary legal framework for early and diversified management of harmful situations that may affect children and their families. It emphasizes prevention and the introduction of a social welfare system independent of the courts and which gives priority to the participation of those concerned. It is no longer institutions, but the needs of the children and young adults

in distress and of their families, that serve to determine well-defined and more individualized assistance measures.

40. A new type of refuge facility for minors was opened in January 2012 in Luxembourg City. It is able to accommodate, without the need for any formalities, minors in crisis (street children, runaways, unaccompanied minors, etc.). A specialized team works in consultation with the young persons concerned and endeavours to find solutions to their life crisis. The facility provides accommodation for a limited number of days to allow the necessary procedures to take place, whether with the courts or the persons holding parental authority.

41. In recent years there has been a huge improvement in the situation of education and care outside the family and school. The number of education and care services (crèches, day-care centres and drop-in centres) and of parental assistants has increased constantly. The childcare service voucher, which was introduced in 2009, provides financial support for the education and care of children depending on the social and financial situation of the parents and has increased the availability of day-care facilities for children from birth to 12 years old. As a result, the number of places available in educational and care facilities and those offering parental assistance increased almost fivefold between 2004 and 2011, from 7,712 to 37,833.

42. Out of its concern to guarantee and ensure the quality of educational and care facilities for children, in 2012 the Government took a number of measures at the political, legislative and administrative levels, as well as educational and organizational measures.

- To guarantee access for children to socio-educational facilities and to ensure the quality of education in educational and care services for children, two draft bills and seven Grand-Ducal regulations were introduced, providing, in particular, for concrete measures to ensure the quality of the facilities and educational activities
- In connection with the introduction of the childcare service voucher, an Internet site, the “Child-care portal”<sup>14</sup> was set up to enable parents to obtain information on education and care facilities as a whole, to compare them and to obtain detailed information on how the childcare voucher works
- Teaching staff are the key to high-quality services, and the Government gives priority to ensuring staff have access to in-service training. The site [www.enfancejeunesse.lu](http://www.enfancejeunesse.lu) enables staff to obtain information on all the training available from approved in-service training services

43. Since 2009, the law has ensured that minors who find themselves involved in a legal procedure have the right independently to receive free legal assistance, regardless of their parents’ means as well as the right to be heard in any procedure that concerns them, and to the appointment of an ad hoc tutor if their interests and those of their legal representatives are opposed.<sup>15</sup>

44. In 2010, the Act of 9 July 2004 on the legal effects of certain partnerships,<sup>16</sup> which offers persons of the same sex or of opposite sexes wishing to live together the possibility of declaring a partnership with the registrar was reinforced to provide greater legal security and transparency to the partners, their children and third parties. While the law does not prevent simple adoption by a person belonging to a partnership, full adoption is possible only for spouses who are not judicially separated.

45. Meanwhile, Luxembourg has continued to adapt its legislation to protect the rights of children by, in particular:

- Approval of the Hague Convention of 19 October 1996<sup>17</sup>

- The Act of 16 July 2011<sup>18</sup> which implements one of the recommendations of the 2008 universal periodic review, in particular by amending the Criminal Code and the Code of Criminal Procedure to specify provisions in respect of indecent assault, rape, sexual exploitation of minors, the sale, distribution or public display of pornographic material and the propagation of messages of a violent nature such as seriously to violate human dignity, criminalization of the consultation of child pornography on the Internet, criminalization of soliciting children for sexual purposes and the adoption by Luxembourg of extraterritorial criminal jurisdiction, referred to as “personal jurisdiction” for the perpetrators of certain crimes who are resident in Luxembourg

46. In addition, in 2012 a bill was introduced to amend several provisions of the Criminal Code concerning efforts to combat sexual abuse and the sexual exploitation of children.

47. A bill to amend the provisions in respect of marriage was introduced in 2012, and is currently being discussed in parliament. In particular, it makes provision for marriage between persons of the same sex and reforms adoption so as to:

- Authorize simple adoption by two married persons of the same sex
- Set the age requirement for both adoptive parents at 25 years
- Extend the possibility of adopting a spouse’s child (“Stiefkindadoption”) to encompass the adoption of a partner’s child
- Revoke the possibility of adoption at the request of the adoptee when the conditions authorizing “Stiefkindadoption” are no longer met
- Make capacity for discernment rather than a predetermined age the condition for minors to give consent

48. The Government is carrying out a project to raise awareness of the dangers associated with the use of the Internet and of mobile phones (BEE-SECURE and LISA).

49. As part of the Government’s multi-year campaign to raise awareness and provide information, two projects intended specifically for young people draw attention to the dangers associated with the use of the new media:

- The “Discrimination is against the law: on the Internet too” project, which is being carried out by the Centre for Equal Treatment (CET) in collaboration with BEE Secure and the 4motion non-profit association, explains to adolescents that discrimination is punished by the law and that it is possible to track it down even when the person responsible thinks he or she is acting anonymously on the Internet
- The “Tolébook” advertisement, a project undertaken in collaboration with the Association to Support Immigrant Workers (ASTI) and the Youth Centres draws the attention of young people to the risks of the Facebook social network in terms of intolerance and racism

## **G. The rights of disabled persons**

50. In July 2011, Luxembourg ratified the United Nations Convention on the Rights of Persons with Disabilities (CPD) and its optional protocol.<sup>19</sup> In conformity with the provisions of article 33 of the Convention, the Ministry of Family Affairs and Social Integration acts as the national focal point and coordinates and promotes action in this sphere in different sectors and at different levels. The Advisory Commission on Human Rights (CCDH) and the Centre for Equal Treatment have been designated as independent



national promotion and follow-up mechanisms. The Ombudsman is responsible for aspects covering protection of persons with disabilities.

51. The effective implementation of the Convention is assured, *inter alia*, by a plan of action that was approved by the Government in March 2012. The Government had called on civil society to help develop the plan of action. More than 100 people participated regularly and continue to be involved in the decision-making process as part of the plan's implementation. The plan is intended to pinpoint the main challenges to be taken up in the different areas of Luxembourg's policy on behalf of persons with disabilities and also provides for specific measures in the short and medium terms.

52. The legislation adopted in the last few years deal with two main aspects: the definition of new personal rights and the introduction of rules for improving accessibility.

53. The Act of 29 September 2003 on persons with disabilities, which gave persons with disabilities the right to an income, was supplemented at the end of 2011.<sup>20</sup> One of the changes was a 100 per cent contribution by the State to the salary of any disabled worker directed to a sheltered workshop, in order to prevent discrimination against workers who cannot be profitably employed.

## H. Sound administration of justice

54. Since 2008, the number of judges and prosecutors and of jurisdictions has increased considerably. In order to reinforce the independence of justice, reforms have been introduced to the recruitment process and internship period of future judges.<sup>21</sup> This is a first step towards a more comprehensive reform of the organization of the judicial system.

55. Greater independence also implies greater responsibility for the judicial services. With this in mind, the organization and supervision of the internship served by judicial assistants is now the responsibility of an *ad hoc* commission made up exclusively of representatives of the judges and of the judicial administration.

56. The new court complex in Luxembourg City, which has been operating since the beginning of the 2008 judicial year, has modern infrastructure and equipment designed to streamline the work of the courts. In 2012 a new court building was inaugurated in the country's second-largest town, Esch-sur-Alzette.

57. The Act of 6 October 2009 to reinforce the rights of victims extends formal status to victims and attaches a certain number of rights and provisions to that status:

- The right of victims to be informed of the possibility of appeal to the General State Prosecutor if a decision is taken to discontinue proceedings
- The right to clarification of the principles followed by the prosecution service when it makes public specific information on the course of the proceedings
- The right to receive certain documents
- The right of the injured party to information on any action they may take and the support available to them
- The right of victims who have lodged a complaint to be informed about the action to be taken in case of a decision to discontinue proceedings
- The procedure to be followed when taking statements from persons
- Management of the investigation and of the examination proceedings
- Mandatory audio or audiovisual recording when minors are interviewed in connection with certain offences

- The possibility for witnesses to give their professional or private address
- Clarification of the procedure whereby parties in criminal proceedings may claim damages
- Extension of the statutory period of limitation in cases involving offences against minors

58. The Act of 10 July 2011 which criminalizes obstruction of the dispensation of justice will also help to ensure the judicial system operates more smoothly.

59. The Government is currently preparing a reform of the 1999 Act on the Police and the Police Inspectorate. It includes provision for a reform of Judicial Police Service and for an increase in personnel together with a recruitment plan covering several years.

60. The Grand-Ducal police college has incorporated into the specific training programme for police officers a module on “The Police and Society” which includes the following subjects:

- Human rights (10 hours), including a visit to the exhibition “A European People, a Foreign People – Luxembourg and the Roma” at the Resistance Museum in Esch-sur-Alzette and attendance at a lecture by the Ombuds-Comité (ORK)
- Constitution and public freedoms (18 hours)
- The rights and duties of public officials (30 hours)
- Professional standards for the police and efforts to combat extremism (12 hours), including theoretical training and a visit to the Hinzert concentration camp

61. A short version of this programme is taught to volunteers from the army and to future sergeants.

62. In addition, police officers take a specific 12-hour course on protection of young people and a 16-hour course on “domestic violence”.

### **Prisons**

63. There are at present two prisons in Luxembourg:

- Luxembourg prison (CPL) the only closed prison in Luxembourg, with a capacity of 600 beds and
- Givenich, which has a capacity of around 100 beds and operates under a semi-open system

64. Both prisons have a women’s and a men’s section. CPL has a disciplinary section for minors, pending the opening in 2013 of the Security Unit for minors (UNISEC) at the State Socio-Educational Centre in Dreibern.

65. In response to the phenomenon of overcrowding and as part of a comprehensive reform of the Prison Administration, the Government plans to build a short-stay prison in the south of the country for a maximum of 400 prisoners on remand. This comprehensive reform also covers the conditions under which custodial sentences are served. In this respect, two bills were submitted to parliament in January 2012.

66. As far as health care is concerned, the prison authorities have made agreements with public hospitals for the provision of somatic health care and psychiatric treatment for prisoners. All the costs of health care are met by the State. These agreements are also being re-examined in order to ensure better treatment for prisoners and to optimize cooperation with the prison authorities. To this end, there are plans to set up a psychiatric medicine service for prisons and a somatic medicine service in each prison.

67. In line with its objective of reforming and reinserting convicts into society, the Government is implementing a programme for the care of drug-users in prisons (the TOX Programme), which has been set up in collaboration with the hospital for nervous and psychiatric disorders (CHNP). The programme adopts a three pronged approach: psychosocial prevention (treatment support), prevention (risk reduction, prevention of relapse and of sexually transmissible diseases) and networking (with national and international external services).

68. As the only security prison in Luxembourg, CPL holds a very mixed population of inmates. The prevailing overcrowding with persons of different nationalities and different backgrounds does, however, give rise to tensions.

69. As part of the ongoing reform, the prison administration has developed a special training and in-service training programme for prison wardens in order to ensure prisoners are properly treated and to prevent ill-treatment. The special training is provided in stages and includes sessions on psychology, law, medicine and the prison world. The in-service training has three components: practical training (self-defence, use of fire extinguishers and first aid), psychological training (communication, managing authority and violence, stress and conflict management, handling mentally disturbed persons) and training for managerial staff.

70. The solitary confinement system, which has been criticized in the past, is still a necessary measure which the prison authorities have to be able to use in the case of particularly serious breaches of discipline. Its application is, however, subject to rules, which allow detainees to lodge an appeal with the prison commission. Whatever action is taken by the commission is also subject to the supervision of administrative tribunals. Discipline and disciplinary procedures are moreover being reformed.

71. Conditions of detention are in fact subject to supervisory mechanisms. The operation of prisons is placed under the supervision of the General State Prosecutor or his specially appointed representative, who are responsible for monitoring and personalizing the enforcement of sentences and who regularly visit the prisons. In addition, the members of the Chamber of Deputies and the Ombudsman have a right of access to prisons.

72. In 2008 the Ombudsman made a recommendation to the Government suggesting a redistribution of responsibility for the supervision of custodial sentences. To this end, in January 2012 a bill to set up a chamber responsible for supervising and enforcing sentences was submitted. Under the bill, decisions relating to the adjustment of sentences, both custodial and non-custodial, will come under the remit of an independent and impartial jurisdiction.

73. In 2010, as recommended by the first universal periodic review in 2008, Luxembourg ratified the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment and designated the Ombudsman as the national preventive mechanism.<sup>22</sup> The mission of the Ombudsman is to exercise external control over places in which persons deprived of their liberty are held, including places of detention for minors. An initial report concerning the admission of prisoners to prisons and health in prisons was submitted on 17 November 2010.

## **I. The right of asylum and international protection**

74. The Act of 5 May 2006 on the right of asylum and additional forms of protection, as subsequently amended, introduced substantial changes to the right of asylum applied in Luxembourg. In particular the Act introduced a new status called “subsidiary protection”, extended its provisions to persecution by agents other than the State and made it possible for applicants for international protection to work under certain specific conditions.

75. The Act also drew up a list of safe countries of origin.<sup>23</sup>

<i>Trend in applications for international protection (2008–September 2012)</i>	<i>Number of applicants</i>	<i>Principal countries of origin</i>
2008	463	1. Kosovo 201 2. Bosnia-Herzegovina 31 3. Iraq 29 4. Iran 18 5. Serbia 18
2009	505	1. Kosovo 132 2. Iraq 65 3. Bosnia-Herzegovina 35 4. Russia 27 5. Albania 26
2010	791	1. Kosovo 162 2. Serbia 148 3. Iraq 95 4. Algeria 44 5. Iran 32
2011	2 170	1. Serbia 947 2. FYR Macedonia 446 3. Kosovo 152 4. Montenegro 103 5. Bosnia-Herzegovina 51
2012	1 700	1. Serbia 329 2. Albania 276 3. Montenegro 257 4. Kosovo 190 5. Bosnia-Herzegovina 178

76. As regards international protection, it should be mentioned that during the period under review, there was a clear downwards trend in the number of decisions awarding refugee status and an increase in the number of applications turned down. In 2011, only 41 persons were awarded refugee status under the terms of the Geneva Convention, a proportion that represents 3 per cent of applicants. It should be noted that the rate was still 27 per cent in 2009. The drop may be accounted for by the large number of applicants for international protection from Serbia and the former Yugoslav Republic of Macedonia (FYRM) who invoked grounds (economic, family or medical) which did not justify the granting of international protection.

<i>Year</i>	<i>Awards of refugee status</i>	<i>Awards of subsidiary protection</i>	<i>Transfer decisions (Dublin)</i>	<i>Refusals (standard procedure)</i>	<i>Refusals (accelerated procedure)</i>	<i>Agreements to extend tolerance</i>
2008	107	0	83	188	39	200
2009	141	11	122	169	16	30
2010	83	19	130	237	3	18
2011	41	6	219	494	207	15

### **The social rights of refugees**

77. As soon as they are awarded refugee status in Luxembourg, all persons recognized as refugees are entitled to the system of social support known as the “guaranteed minimum income” (*Revenu minimum garanti* or *RMG*), with the exception of persons under the age of 25 who have no dependent children.

78. Beneficiaries receive various forms of financial and material assistance under the system.

79. Refugees are also entitled to family benefits for their children (monthly family allowance, maternity benefit, schooling allowance, disabled child supplementary allowance) as well as specific study benefits, as are all residents and workers in Luxembourg.

80. Adults and children suffering from severe disabilities or diseases receive aids in cash or in kind under the dependence-insurance scheme, which is part of compulsory sickness insurance.

### **The social rights of applicants for international protection**

81. All international protection applicants who have no income of their own are entitled to a monthly social benefit for the duration of the necessary administrative procedures to determine whether they qualify as refugees, including the time needed to appeal before the Administrative Court and Court of Appeal.

82. Social assistance for applicants for international protection includes a number of measures and benefits in support of households. These depend on the composition of a household and the age and state of health of its members. In addition to material and financial aid, all applicants for international protection are entitled to the support of a social worker and/or a nurse from the Luxembourg Reception and Integration Agency (OLAI) as well as individual assistance where necessary. The Agency, which was set up in 2008,<sup>24</sup> comes under the authority of the Ministry for the Family and Integration and is in sole charge of this social assistance, which includes:

- Monthly financial assistance
- Medical assistance
- Public transport vouchers
- Occasional grants where necessary
- Provision of accommodation for the duration of the procedure and even beyond
- Three meals a day in the form of full board or the provision of food

83. Special efforts are made to provide schooling for the children of applicants for international protection: coordination by the Department responsible for the schooling of foreign children in the Ministry of Education, the attention of intercultural mediators and

financial subsidies for communes, in proportion to the number of children of applicants for international protection attending nursery/primary school.

84. In 2001, Luxembourg transposed European Directive 2008/115/EC.<sup>25</sup> This action introduced the principle of a 30-day period for voluntary return. Because encouraging voluntary return is a priority in order to preserve the dignity of persons who are to be removed, an agreement on cooperation over voluntary return has been signed with the International Organization for Migration (IOM) concerning citizens of third countries (applicants for international protection and persons in an irregular situation).

85. Rejected international protection applicants who volunteer to return to their countries of origin are offered the following assistance by the Government, in collaboration with IOM:

- Advice regarding formalities
- Administrative assistance to obtain travel papers
- Booking and purchase of plane or train tickets
- Payment of a financial resettlement grant

86. The Government has also set up a voluntary return programme for citizens of the Balkan States who are no longer entitled to assistance from IOM since the relaxation of the visa regime in respect of these countries (Albania, Bosnia-Herzegovina, the former Yugoslav Republic of Macedonia, Montenegro and Serbia).

87. In response to criticism over a lack of transparency in respect of removal, and in particular forced removal, a Grand-Ducal regulation has laid down rules of good conduct to be observed by officials responsible for enforcing expulsions.<sup>26</sup> The rules specify, in particular, that:

- The removal may be suspended if its continuation threatens the security of the person concerned, other passengers, crew members, members of the escort or observers
- The removal may not take place if the person is medically unfit to travel
- Family unity must be preserved, unless a member of the family deliberately avoids the removal measure
- Due consideration is to be given to the special needs of vulnerable persons, in particular children and elderly persons
- The members of the escort are not to be armed when carrying out the removal; they are to wear civilian clothes and the wearing of masks is prohibited
- A report, that includes any observations by a neutral observer, is to be made on the removal measure
- The members of the escort are to receive special training; the training is both theoretical and practical. Its purpose is to acquaint staff with:
  - The need to ensure respect for the dignity and integrity of persons on whom a security search is being carried out
  - The need to respect the dignity of persons who are to be removed for the whole duration of the removal by air
  - The need to ensure that the menu proposed to a person being removed is compatible with his or her religious convictions

- Whenever the removal involves a charter flight, the presence of a representative of the Ministry and of a medical assistant is systematically required. In addition, the presence of an impartial, neutral and independent observer, designated by the Minister, is authorized from the time of departure from the airport until arrival at the destination. A framework agreement was signed in 2011 by the Government and the Luxembourg Red Cross in this connection. Finally, the Minister may decide to attach a representative of the Ministry and a medical assistant to the escort if the removal is carried out on a regular flight or by land. In 2011, 26 forced returns were carried out, in comparison with 59 in 2010 and 52 in 2009

## **J. Administrative detention of foreigners in an irregular situation**

88. The mission of the detention centre (CdR), which became operational in August 2011, is to take in and accommodate persons concerned by a confinement measure<sup>27</sup> and, if appropriate, to prepare them for removal to their home country or country of origin by providing them, if necessary and depending on the circumstances, with individual psychosocial support from the Centre's specially trained staff.

89. Since it came into operation, this closed centre has received approximately 348 detainees of all categories. It has a nominal capacity for 88 detainees. However, because it is divided into four different accommodation units, one of which is for women and another for families, and because of the policy of ensuring that each detainee has an individual room even though some rooms could serve as double rooms, its actual permanent capacity is for 30 men and 16 women.

90. The functional purpose of the Centre, as reflected in the Act of 28 May 2009 concerning the detention centre and the Grand-Ducal regulation of 17 August 2011 for its implementation, is to ensure that detainees have as much freedom as possible, while ensuring that the purpose of detention is met. To this end, during the day detainees are free to move about in the unit in which they are being held and free to use the exercise yard. They are also by and large free to communicate with the outside world by permanent access to the phone. They may also communicate by fax, e-mail and surface mail. Everything is done to facilitate visits, the only condition being the requirement for visitors to provide documentary proof of their identity before being allowed to make a visit. Recreational, sports and cultural or artistic activities are offered daily to detainees, as well as literacy or language courses provided by the Ministry of Education, which have recently become available. Detainees receive a daily allowance of 3 euros and may carry out simple maintenance tasks for the Centre, for which they are paid 2 euros per hour. Detainees are able freely to use their own assets and may avail themselves of canteen services from an outside provider. They are also able to transfer their assets to anyone of their choosing and to receive or transfer money via the Centre's bank account. If the detainees do not have proper clothing, the Centre provides it for the duration of their stay.

91. Any NGOs active in helping and providing support for persons liable to be removed have free access to the Centre subject to two conditions: they must be approved by the minister responsible for immigration and their representatives must have been approved individually by the director of the Centre. At present, approximately 33 NGO representatives have been individually approved.

92. The average length of detention for all categories of detainee is currently 49 days. It should be pointed out that under the relevant Act, the Centre may hold families with children for a maximum of 72 hours.

## **K. Combating terrorism**

93. Thanks to the adoption of two bodies of legislation, Luxembourg has made considerable progress in recent years in its efforts to combat money laundering and financing of terrorism:

- The Act of 17 July 2008,<sup>28</sup> which sets a legal framework for efforts to combat money laundering and financing of terrorism, and above all
- The Act of 27 October 2010.<sup>29</sup> This Act was drawn up in response to the recommendations made by the Financial Action Task Force (FATF) in its 2010 mutual evaluation report on Luxembourg. The Act is made up of three parts:
  - Part I, which governs the provisions for amendment and repeal of the provisions of the law applicable in both the criminal and financial sectors, the insurance sector and the sector of other designated non-financial professions
  - Part II, which governs the introduction, through independent legal provisions, of an ad hoc regime to control the physical transport of cash into, through or out of Luxembourg and
  - Part III, governing, through independent legal provisions, a legal framework for the implementation of the decisions of the United Nations Security Council and the acts adopted by the Council of the European Union concerning prohibitions and restrictive measures in respect of certain States, political regimes, persons, entities and group

94. We should also mention the ratification, in 2008, of the International Convention for the Suppression of Acts of Nuclear Terrorism<sup>30</sup> and the bill currently being discussed in parliament to adopt the Council of Europe Convention on the Prevention of Terrorism, signed in Warsaw in 2005.

## **L. Integration of foreign citizens in Luxembourg**

95. The Act of 16 December 2008 on admission and integration has for the first time entrusted a public administration, the Luxembourg Reception and Integration Agency (OLAI), with the mission of coordinating and implementing reception and integration policy. The Act defines integration as “a two-way process whereby a foreigner shows his or her desire durably to participate in the life of the host society, which shall adopt in their respect every social, economic, political and cultural measure to encourage and facilitate such a step”. To this end, the Act has introduced two tools:

- The reception and integration contract (CAI) which covers a period of two years and contains mutual commitments by the State and the foreign citizen in order to arrange and facilitate the latter’s integration. It provides for language training, training in citizenship and a day of guidance during which signatory candidates are given practical information on life in Luxembourg society
- The national multi-year plan of action which is the tool for strategic and operational coordination of cross-cutting integration policies. It pools the resources of 14 ministries and government administrations in an effort to encourage harmonization by the ministries of any action they undertake, to which they provide financial support and for which they take responsibility in respect of the integration of foreigners in Luxembourg and efforts to combat discrimination. The plan covers five years and is based on the 11 guiding principles of European integration policy. The plan is monitored and evaluated by the Economic and Social Council in order to



determine that its achievements are in line with the desired objectives, to identify the difficulties met and adjustments required. The evaluation will also make it possible to make recommendations on follow-up on completion of the plan of action. In order to ensure dialogue with civil society, an annual public hearing is held to help define priorities

## **M. Combating all forms of discrimination and related intolerance**

96. Since 2006, the Centre for Equal Treatment (CET) has been promoting, analysing and monitoring equal treatment of all persons without discrimination on grounds of race, ethnic origin, sex, religion or opinion, disability or age.

97. In 2011, efforts to combat certain forms and expressions of racism and xenophobia were strengthened in the Criminal Code.<sup>31</sup>

98. Efforts to combat all forms of discrimination and intolerance must begin at the earliest possible age at school. In Luxembourg's education system, all children above 3 years of age are entitled to schooling regardless of their parents' status. All children who have reached the age of 4 years by 1 September each year are required to attend school. This obligation applies for 12 consecutive years from 1 September of the relevant year.

99. In order to avoid children who have learning difficulties or severe behavioural problems from being excluded from school before they obtain a qualification, upper secondary schools organize the following activities or classes:

- Educational and behavioural support
- Support with schoolwork
- Extracurricular cultural, sporting and community activities

100. The citizenship skills that children should develop from primary school help them to understand their place in the world, their rights and their duties. Pupils develop awareness both of the values necessary in order to live together (non-violence, cooperation, respect, acceptance, solidarity, empathy and justice) and of the sense of group identity (family, school, friends, the national community and humankind).

101. In post-primary education, as part of "moral and social training" the subject known as "Practical philosophy" includes a programme designed to encourage a culture that values democracy, peace and the development of a sense of citizenship that is thoughtful, critical, active, cooperative and responsible.

102. Civic education is intended to nurture human relations in a democratic society, to provide a matrix for activities that bring together partners from within and outside school for purposes of cooperation, participation and commitment and lastly to offer a multidisciplinary activity that involves all subject areas.

103. Civic-education modules have been incorporated into all levels of vocational training. In the next few years there are plans to adapt them to the other branches of post-primary education.

104. A new textbook on civic education will be available after the beginning of the 2012/13 school year. As regards its pedagogical concept, the manual is both action- and skills-based. The skills may be subdivided into three categories:

- Acquiring knowledge and putting it into practice
- Using methods
- Judging and acting

105. The specific human rights skills, which broadly overlap with overall social and civic skills, are gradually developed at three levels:

- Judgement
- Action and
- Mastering certain methods of work

106. There are three fields of education corresponding to these three levels:

- Learning about human rights
- Learning through human rights
- Learning for human rights

107. In order to reduce the school drop-out rate and limit exclusion from school, a plan of action for the inclusion of pupils with specific needs has been developed and in 2011 a commission on reasonable accommodations was set up. Children who are ill or in hospital also receive greater attention.

108. Pupils with behavioural problems may be admitted to “mosaic” classes or to the facilities offered by the “Itzigerstee” project.

109. A course on education for citizenship is provided at the University of Luxembourg to future primary education teachers.

110. The Government has set up the Educational reception unit (Cellule d'accueil scolaire pour élèves nouveaux arrivants – CASNA) for foreign-language pupils who have recently arrived in Luxembourg. The unit provides information in different languages on the Luxembourg school system and the assistance available for children speaking foreign languages. All new arrivals aged between 12 and 18 must pass through CASNA before enrolling in a class or vocational training.

111. In order to enable foreign-language children to keep in touch with their mother tongue while learning Luxemburgish, French and German, some lessons in the Luxembourg school programme are now taught in Portuguese during the primary-school programme. The teachers for the lessons are recruited and paid by the respective embassies.

112. In order to help children of preschool age integrate into school, Portuguese-mother-tongue assistants may assist preschool teachers for a few hours a week.

113. In addition to information meetings held for Luxemburgish- and French-speaking parents, special information meetings are held for Portuguese, Cape Verdean and Chinese parents with interpretation into their respective languages. A large number of information documents are translated into the main foreign languages.

114. In order to facilitate dialogue between foreign-language-speaking parents, school authorities, teachers and pupils, the Ministry of Education has recruited intercultural mediators speaking Albanian, Creole (Cape Verdean), Chinese, Italian, Portuguese, Serbo-Croat, Arabic, Farsi and Russian, in addition to languages commonly used in Luxembourg. These help mainly at information meetings and discussions between teachers, parents and pupils by providing translation and intercultural mediation.

115. Integration policy in Luxembourg is coordinated by the Luxembourg Reception and Integration Agency (OLAI). Efforts to combat discrimination based on ethnic or racial origin, religion or beliefs, disability, age or sexual orientation are a key component and integral part of the Agency's policy for welcoming and integrating immigrants.

116. Since 2002, the Government has been running an information and awareness-raising campaign on efforts to combat discrimination; it is intended both for the general public and

for more specific audiences, and has led to the introduction of specialized training tools (e-learning, training for jurists, a teaching pack for preschool teachers), tools to heighten awareness among the general public (advertisements, campaigns, the diversity portal) as well as focused actions such as that targeting the labour market (for example, the introduction of the “Socially responsible company” label).

117. Since 2009, these measures have been part of the national plan of action to achieve integration and combat discrimination. The Government is continuing its efforts, for example by helping the Institute for a Societal Movement (IMS) to introduce the “Lëtzebuerg Charter for Diversity”. It also helps the Centre for Equal Treatment to carry out its projects, such as the organization of a day on testing for discrimination and assists associations active in efforts to combat discrimination.

## **N. The right to an adequate standard of living**

118. For the Grand Duchy of Luxembourg, social security is an essential mechanism for ensuring stability and maintaining peoples’ standard of living in the face of social hardship, as well as a tool for poverty prevention and eradication.

119. Changes in the population, trends in society and economic vicissitudes make it necessary constantly to adapt the social security system so as to protect the rights of the insured and to ensure its sustainability.

120. A concern to ensure equal treatment for all persons employed in Luxembourg has led to the adoption of a single status that does away with all forms of distinction between employees and workers and the system of compensation in case of unfitness for work has been standardized. All private-sector workers have been brought together in a single health-insurance and pension fund; this has simplified the administrative structure and improved both the service and the exercise by insured persons of their social-security rights.

121. Legislation on professional accidents and illnesses has been brought up to date. Compensation based solely on accident benefit has been replaced by more comprehensive compensation for the different types of injury, in line with the provisions of ordinary civil law. Accident insurance now provides distinct compensation for actual loss of earnings and for non-pecuniary loss that might result from any bodily harm, in order to remedy the consequences of an accident that has no direct financial consequences. In the case of fatal accidents, in addition to survivors’ benefit, beneficiaries are entitled to compensation for moral injury.

122. In order to ensure the sustainability of the Luxembourg health-care system, adjustments have been made to sickness insurance without jeopardizing the mandatory contractual agreements with providers which guarantee equal access for all insured persons to equal care and freedom for private medical practice. The third-party payment system has been introduced to enable people in difficult financial circumstances to request direct payment of health-care costs by the sickness insurance. In addition, patients are entitled to designate a referring physician whose main role is to coordinate and better organize the provision of care and keep track of their medical records.

123. Since 2009, employees have been entitled to five working days compassionate leave each year to accompany a member of their family who is in the terminal stage of a severe illness, with the same benefit as for sick leave from work.

124. A reform has specified the role of the Agency for the development of employment (ADEM), in particular in respect of the development of employment and training for job seekers.

125. The development of social security, together with that of employment and family policies, has not led Luxembourg to lose sight of the need for tools such as welfare support as an expression of national solidarity that is determined solely by individual needs with no professional contribution as a counterpart. To this end, since 1986 Luxembourg has had a guaranteed minimum income as one of the requirements of a strategy to ensure active inclusion in society, whose three pillars are:

- A guaranteed minimum income
- Personalized assistance to find work and help with social integration and
- Access to high-quality services

126. In 2011 a new welfare organization act came into force.<sup>32</sup> The establishment of 30 welfare offices, public establishments under the supervision of the communes, has fostered a preventive approach designed to break the vicious circle of social exclusion. In addition to ensuring that people in need and their families have access to the goods and services required by their circumstances, the act helps them to preserve or acquire independence. Assistance may be palliative, curative or preventive and has a subsidiary role as a complement to other welfare measures and to the financial benefits provided under other laws and regulations, which applicants for welfare must first exhaust.

## **O. The right to health**

127. The organization and funding of the Luxembourg health-care system has undergone a reform which came into force on 1 January 2012 and which is intended to improve the efficiency and quality of our health-care system.<sup>33</sup>

128. The Luxembourg health-care system, which is based on the values of universality, equity of access to treatment and to good quality health services and on solidarity, provides the population of Luxembourg with exceptional medical care while guaranteeing equal access by all citizens to good quality medical and hospital services.

129. The modernization of psychiatric care in Luxembourg, which was begun in 2006 and promotes the decentralization and regionalization of psychiatric facilities, has been continued by the Government in recent years.

130. In 2009, a new act fully reformed the existing legislation in respect of compulsory admission to hospital of mentally ill persons and in particular made the compulsory hospitalization order, which was previously the responsibility of the medical authorities, subject to a decision by the courts as well as introducing regulations on compulsory treatment.<sup>34</sup> It also regulated procedure in respect of the isolation and confinement of patients; these measures are in principle acceptable, albeit subject to restrictive conditions.

131. The act also instituted the appointment of a contact person to whom patients under treatment in or placed in a psychiatric establishment may turn for information on their rights or for advice on legal or other matters concerning them.

132. Under the Luxembourg health-care system, any person with a mental disorder is first of all admitted to a psychiatric service in one of the five hospitals providing acute care in Luxembourg; only when the need for long-term psychiatric treatment has been determined are patients placed in a specialized establishment, the national psychiatric hospital (CHNP) whose primary mission is the rehabilitation of patients.

133. Patients who are legal minors are guaranteed quality psychiatric care by a range of health-care services, which has expanded in recent years, in particular as a result of the development of a child psychiatry service (minors aged from 0 to 13 years) and a national juvenile psychiatry service (minors aged from 14 to 18 years).

134. In 2012, the national juvenile psychiatry service moved into new premises and the number of beds increased from 15 to 23. The service also has a new day-care centre where an additional 15 young people may receive psychiatric care during the day.

135. The mission of the closed psychiatric unit for adolescents in difficulty, which was set up in 2006, is to treat adolescents with psychiatric disorders who represent a threat to themselves or to others to enable them to be reintegrated into society.

136. The quality of outpatient psychiatric care has also improved thanks to the continuing action of the psychiatric care networks and of the home-care psychiatric care service (SPAD) of the national psychiatric hospital (CHNP) whose mission is to offer psychiatric follow-up at home for all persons with mental disorders.

137. A project to modernize the infrastructure of CHNP has also been drawn up and is currently being reviewed by the hospital sector standing committee so as to take into account societal, legal and medical developments.

138. To conclude, the provision by the Government of suitable means and facilities makes it possible to provide quality psychiatric care for both adults and minors, in conformity with the principles of good medical practices and with respect for their fundamental rights.

139. A bill to strengthen patients' rights by regulating them within a coherent body of law has just been introduced to parliament. The rights include the guarantee for all citizens of access to good quality care, free choice of health-care provider, informed consent when receiving medical treatment and access to one's medical records.

140. The bill also assigns a specific status to persons informally accompanying patients to health-care providers and generalizes the possibility for patients to designate a person they trust to take any decisions in respect of their treatment if they are no longer able to express their wishes.

141. The reform bill also provides for the establishment of a national health information and mediation service. This will be a permanent body for dialogue, information and legal advice, open to both health professionals and patients, whose aim will be in particular to bring together parties and find solutions to conflicts via mediation, in a spirit of dialogue and mutual understanding and without going through the courts. The service will have an essential role to play in ensuring respect for patients' rights in the sphere of health. It will be free of charge, thereby ensuring equal access to the service for all patients.

142. The introduction of such a service and the strengthening of patients' rights within a new legislative framework is an indication of the ongoing efforts by the Government to protect the fundamental rights of all patients treated by the Luxembourg health system.

## **P. Access to affordable and decent housing**

143. In response to the sharp rise in house and land prices in Luxembourg in recent years, the Government has continued its active housing policy in close cooperation with public property developers. Since the entry into force of the 2008 Housing Act,<sup>35</sup> 98 of the 106 communes in Luxembourg have signed a "housing pact" with the State in order to increase the supply of housing. The law provides inter alia for a specific annual levy on certain buildings and building plots to limit the number of uninhabited dwellings and plots on which building has not begun. In addition, in order to increase the supply of reasonably priced housing the Government has decided shortly to set up a national urban development corporation.

144. There is no discrimination between Luxembourgers and foreigners in access to social housing or in obtaining individual housing support. In recent years ad hoc measures have been taken on behalf of certain categories of people (such as children, disabled persons and low-income households) and to promote social intermingling. Legislation on rental tenancy provides extensive protection for the rights of tenants and entrusts communes with providing, in so far as possible, housing for all persons domiciled on their territory. The Government has announced the introduction of a rental subsidy in 2013 to assist households in rental accommodation who are below the poverty line. A reform of personal housing subsidies is currently being prepared.

145. As part of the constitutional reform, there are plans to include in the Constitution the requirement for the State to ensure that all persons are able to live in proper housing.

## **Q. Cultural rights**

146. Culture and cultural rights are not only a tool and vector for fundamental rights, they also generate rights.<sup>36</sup> They are an integral part of human rights and full and comprehensive promotion of and respect for cultural rights is indispensable in order to preserve human dignity and ensure positive social interaction between individuals and communities in a diverse and multicultural world.

147. Cultural rights imply that every person has the right freely to take part in community cultural life and to enjoy the arts. Fulfilment of cultural rights supposes participation in and access and contribution to culture, which means that culture must be available, accessible, acceptable and adaptable and that it must benefit from appropriate policies and measures.<sup>37</sup>

148. Three of the five priorities that inspire national cultural policy directly concern the right to take part in cultural life:

- Culture as a constituent part of the knowledge society:

Because digitalization is an essential element for the conservation and dissemination of the cultural heritage and for enabling as many people as possible to participate in and make use of culture, a national mass digitalization plan is being prepared

Emphasis is also placed on statutory deposit of all works produced or jointly produced in Luxembourg as an essential element of the collective memory

Luxembourg has also introduced a specific legal framework for the development of public libraries throughout the country as a means of better disseminating knowledge and ensuring equality of access and of making it easier for everyone to participate in the knowledge society

- Culture that is accessible to all:

Because access to culture is a fundamental right, measures have been taken to improve equality of access to culture and to leisure activities. Better integration of culture in schools and in school curricula is under way. An important factor in terms of participation in cultural life is ensuring that as many people as possible are able to learn Luxemburgish which is a means of integration and of communication. The preparation of a five-language Luxemburgish dictionary is being undertaken as a means of contributing to this objective

- A culture for young people:

The desired objective, which is pursued via a cross-cutting approach, is to provide support for both the production and enjoyment of culture, particularly by young

people, so as to develop among them a positive attitude to life and active, critical and constructive participation in societal life

149. In a broader context, Luxembourg is also continuing to encourage respect for cultural diversity, in particular in line with the UNESCO Convention on the Protection and Promotion of the Diversity of Cultural Expressions; by promoting and implementing this Convention, Luxembourg affirms its multicultural nature while at the same time assuring its own cultural identity.

150. It is desirable further to strengthen the links between human rights and cultural rights, as reflected in the debates within the Council of Europe and in the crucial challenge of “living together” within multicultural societies. Because culture is vital to the sustainable enjoyment of human rights and for a democratic approach to cultural diversity, it is important to progress in this area.

## R. Combating impunity

151. At the beginning of 2012, Luxembourg legislation was brought into line with the provisions of the Rome Statute of the International Criminal Court.<sup>38</sup> Ratification of the amendments made to the Rome Statute of the International Criminal Court (the Kampala Amendments) should be complete by the beginning of 2013.

### Notes

- <sup>1</sup> Des tempéraments à ce principe sont cependant prévus et le vote par correspondance facilite l'exercice du droit de vote.
- <sup>2</sup> Loi du 16 décembre 2008 concernant l'accueil et l'intégration des étrangers au Grand-Duché de Luxembourg; voir aussi le règlement grand-ducal du 15 novembre 2011 relatif à l'organisation et au fonctionnement des commissions consultatives communales d'intégration.
- <sup>3</sup> Loi du 23 octobre 2008 sur la nationalité luxembourgeoise.
- <sup>4</sup> Art.77.- « Quiconque fait état de la qualité de journaliste professionnel, sans remplir les conditions prévues à l'article 3, point 6, est puni d'une amende de 500.- à 25.000.- euros. En cas de récidive, l'amende est portée au double ».
- <sup>5</sup> Décret du 16 septembre 2010.
- <sup>6</sup> Voir les trois sites thématiques en ligne: Echsimega.lu, Megapower.lu et Megafamily.lu.
- <sup>7</sup> Outil permettant de déterminer à partir d'un programme standardisé et convivial si d'éventuels écarts de salaire entre le personnel féminin et masculin sont explicables par des facteurs objectifs ou s'ils contiennent un indice d'une discrimination cachée.
- <sup>8</sup> Techniques d'établissement d'une grille de salaire parfaitement équitable en rapport avec les activités de travail des femmes et des hommes.
- <sup>9</sup> Un site internet spécifique est également dédié à ce thème : [www.violence.lu](http://www.violence.lu).
- <sup>10</sup> Loi du 13 mars 2009 relative à la traite des êtres humains, (1) portant approbation: a) du Protocole additionnel à la Convention des Nations Unies contre la criminalité transnationale organisée visant à prévenir, réprimer et punir le trafic des personnes, en particulier des femmes et des enfants, ouvert à signature du 12 au 15 décembre 2000 à Palerme, et b) de la Convention du Conseil de l'Europe sur la lutte contre la traite des êtres humains, signée à Varsovie le 16 mai 2005; (2) modifiant le Code pénal; et (3) modifiant le Code d'instruction criminelle.
- <sup>11</sup> L'article 382-1 alinéa 1 du dispose que :
 

« Constitue l'infraction de traite des êtres humains le fait de recruter, de transporter, de transférer, d'héberger, d'accueillir une personne, de passer ou de transférer le contrôle sur elle, en vue:

(1) de la commission contre cette personne des infractions de proxénétisme, d'agression ou d'atteintes sexuelles;

(2) de l'exploitation du travail ou des services de cette personne sous la forme de travail ou de services forcés ou obligatoires, de servitude, d'esclavage ou de pratiques analogues et en général dans

- des conditions contraires à la dignité humaine;
- (3) du prélèvement d'organes ou de tissus en violation de la législation en la matière;
- (4) de faire commettre par cette personne un crime ou un délit, contre son gré.»
- <sup>12</sup> Loi du 21 juillet 2012 portant :
- (1) approbation du Protocole contre le trafic illicite de migrants par terre, air et mer, signé à Palerme, le 12 décembre 2000, additionnel à la Convention des Nations Unies contre la criminalité transnationale organisée du 15 novembre 2000
- (2) modification du Code pénal
- (3) modification du Code d'instruction criminelle
- (4) modification de la loi modifiée du 29 août 2008 sur la libre circulation des personnes et l'immigration
- <sup>13</sup> Loi modifiée du 16 décembre 2008 relative à l'aide à l'enfance et à la famille; voir également ses règlements d'exécution.
- <sup>14</sup> [www.kannerbetreuung.lu](http://www.kannerbetreuung.lu), respectivement [www.accueilenfant.lu](http://www.accueilenfant.lu).
- <sup>15</sup> Loi du 5 juin 2009 portant modification:
- 1° de l'article 37-1 de la loi modifiée du 10 août 1991 sur la profession d'avocat;
- 2° du Livre premier, Titre X, Chapitre 1er du Code civil;
- 3° de l'article 1046 du Nouveau Code de procédure civile.
- <sup>16</sup> Loi du 9 juillet 2004 relative aux effets légaux de certains partenariats.
- <sup>17</sup> Loi du 16 juin 2010 portant approbation de la Convention de La Haye du 19 octobre 1996 concernant la compétence, la loi applicable, la reconnaissance, l'exécution et la coopération en matière de responsabilité parentale et de mesures de protection des enfants.
- <sup>18</sup> Loi du 16 juillet 2011 portant:
1. approbation:
- (a) de la Convention du Conseil de l'Europe pour la protection des enfants contre l'exploitation et les abus sexuels ouverte à la signature à Lanzarote les 25–26 octobre 2007;
- (b) du Protocole facultatif à la Convention des Nations Unies relative aux droits de l'enfant, concernant la vente d'enfants, la prostitution des enfants et la pornographie mettant en scène des enfants.
2. modification de certains articles du Code pénal et du Code d'instruction criminelle.
- <sup>19</sup> Loi du 28 juillet 2011 portant
1. approbation de la Convention relative aux droits des personnes handicapées, faite à New York, le 13 décembre 2006
2. approbation du Protocole facultatif à la Convention relative aux droits des personnes handicapées relatif au Comité des droits des personnes handicapées, fait à New York, le 13 décembre 2006
3. désignation des mécanismes indépendants de promotion, de protection et de suivi de l'application de la Convention relative aux droits des personnes handicapées
- <sup>20</sup> Loi du 16 décembre 2011 portant modification 1. de la loi modifiée du 12 septembre 2003 relative aux personnes handicapées; 2. du Code du travail; 3. de la loi modifiée du 31 juillet 2006 portant introduction d'un Code du travail.
- <sup>21</sup> Loi du 7 juin 2012 sur les attachés de justice.
- <sup>22</sup> Loi du 11 avril 2010
- (1) portant approbation du protocole facultatif se rapportant à la Convention contre la torture et autres peines ou traitements cruels, inhumains ou dégradants, adopté par l'Assemblée Générale de l'Organisation des Nations Unies à New York, le 18 décembre 2002 et
- (2) portant désignation du médiateur en tant que mécanisme national de prévention et fixant ses attributions
- <sup>23</sup> Règlement grand-ducal du 21 décembre 2007 fixant une liste de pays d'origine sûrs au sens de la loi modifiée du 5 mai 2006 relative au droit d'asile et à des formes complémentaires de protection et
- Règlement grand-ducal du 1er avril 2011 modifiant le règlement grand-ducal du 21 décembre 2007 fixant une liste de pays d'origine sûrs au sens de la loi modifiée du 5 mai 2006 relative au droit d'asile



- et à des formes complémentaires de protection.
- <sup>24</sup> Loi du 16 décembre 2008 concernant l'accueil et l'intégration des étrangers au Grand-Duché de Luxembourg. Voir aussi Règlement grand-ducal du 8 juin 2012 fixant les conditions et les modalités d'octroi d'une aide sociale aux demandeurs de protection internationale.
- <sup>25</sup> Loi du 1er juillet 2011 modifiant la loi modifiée du 29 août 2008 sur la libre circulation des personnes et l'immigration et la loi modifiée du 5 mai 2006 relative au droit d'asile et à des formes complémentaires de protection.
- <sup>26</sup> Règlement grand-ducal du 26 septembre 2008 établissant des règles de bonne conduite à appliquer par les agents chargés de l'exécution d'une mesure d'éloignement et modifiant le règlement grand-ducal du 21 décembre 2006 portant transposition de la directive 2003/110/CE du Conseil du 25 novembre 2003 concernant l'assistance au transit dans le cadre de mesures d'éloignement par voie aérienne.
- <sup>27</sup> En application de l'article 120 de la loi du 29 août 2008 sur la libre circulation des personnes et l'immigration ou de l'article 10 de la loi modifiée du 5 mai 2006 relative au droit d'asile et à des formes complémentaires de protection.
- <sup>28</sup> Loi du 17 juillet 2008 relative à la lutte contre le blanchiment et contre le financement du terrorisme et modifiant: 1) l'article 506-1 du code pénal, 2) la loi du 14 juin 2001 portant 1. approbation de la Convention du Conseil de l'Europe relative au blanchiment, au dépistage, à la saisie et à la confiscation des produits du crime, faite à Strasbourg, le 8 novembre 1990; 2. modification de certaines dispositions du code pénal; 3. modification de la loi du 17 mars 1992 1. portant approbation de la Convention des Nations-Unies contre le trafic illicite de stupéfiants et de substances psychotropes, faite à Vienne, le 20 décembre 1988; 2. modifiant et complétant la loi du 19 février 1973 concernant la vente de substances médicamenteuses et la lutte contre la toxicomanie; 3. modifiant et complétant certaines dispositions du code d'instruction criminelle.
- <sup>29</sup> Loi du 27 octobre 2010 portant renforcement du cadre légal en matière de lutte contre le blanchiment et contre le financement du terrorisme; portant organisation des contrôles du transport physique de l'argent liquide entrant au, transitant par ou sortant du Grand-Duché de Luxembourg; relative à la mise en œuvre de résolutions du Conseil de Sécurité des Nations Unies et d'actes adoptés par l'Union européenne comportant des interdictions et mesures restrictives en matière financière à l'encontre de certaines personnes, entités et groupes dans le cadre de la lutte contre le financement du terrorisme; modifiant :
1. le Code pénal;
  2. le Code d'instruction criminelle;
  3. la loi modifiée du 7 mars 1980 sur l'organisation judiciaire;
  4. la loi modifiée du 12 novembre 2004 relative à la lutte contre le blanchiment et contre le financement du terrorisme;
  5. la loi modifiée du 19 février 1973 concernant la vente de substances médicamenteuses et la lutte contre la toxicomanie;
  6. la loi modifiée du 11 avril 1985 portant approbation de la Convention sur la protection physique des matières nucléaires, ouverte à la signature à Vienne et à New York en date du 3 mars 1980;
  7. la loi modifiée du 31 janvier 1948 relative à la réglementation de la navigation aérienne;
  8. la loi du 20 juin 2001 sur l'extradition;
  9. la loi du 17 mars 2004 relative au mandat d'arrêt européen et aux procédures de remise entre Etats membres de l'Union européenne;
  10. la loi du 8 août 2000 sur l'entraide judiciaire internationale en matière pénale;
  11. la loi modifiée du 23 décembre 1998 portant création d'une commission de surveillance du secteur financier;
  12. la loi modifiée du 5 avril 1993 relative au secteur financier;
  13. la loi modifiée du 6 décembre 1991 sur le secteur des assurances;
  14. la loi modifiée du 9 décembre 1976 relative à l'organisation du notariat;
  15. la loi modifiée du 10 août 1991 sur la profession d'avocat;

16. la loi modifiée du 10 juin 1999 relative à l'organisation de la profession d'expert-comptable;
  17. la loi du 18 décembre 2009 relative à la profession de l'audit;
  18. la loi modifiée du 20 avril 1977 relative à l'exploitation des jeux de hasard et des paris relatifs aux épreuves sportives;
  19. la loi modifiée du 17 mars 1992 portant approbation de la Convention des Nations Unies contre le trafic illicite de stupéfiants et de substances psychotropes, faite à Vienne, le 20 décembre 1988;
  20. la loi modifiée du 14 juin 2001 portant approbation de la Convention du Conseil de l'Europe relative au blanchiment, au dépistage, à la saisie et à la confiscation des produits du crime, faite à Strasbourg, le 8 novembre 1990;
  21. la loi modifiée du 20 mars 1970 portant réorganisation de l'Administration de l'enregistrement et des domaines.
- <sup>30</sup> Loi du 29 juillet 2008 portant approbation de la Convention internationale pour la répression des actes de terrorisme nucléaire, ouverte à la signature à New York le 14 septembre 2005.
- <sup>31</sup> Loi du 13 février 2011 portant modification de l'article 457-3 du Code pénal.
- <sup>32</sup> Loi du 18 décembre 2009 organisant l'aide sociale.
- <sup>33</sup> Loi du 17 décembre 2010 portant réforme du système de soins de santé et modifiant:
1. le Code de la sécurité sociale;
  2. la loi modifiée du 28 août 1998 sur les établissements hospitaliers.
- <sup>34</sup> Loi du 10 décembre 2009 a) relative à l'hospitalisation sans leur consentement de personnes atteintes de troubles mentaux, b) modifiant la loi modifiée du 31 mai 1999 sur la Police et l'Inspection générale de la Police et c) modifiant l'article 73 de la loi communale modifiée du 13 décembre 1988.
- <sup>35</sup> Loi du 22 octobre 2008 portant: 1. promotion de l'habitat et création d'un pacte logement avec les communes, 2. sur le droit d'emphytéose et le droit de superficie, 3. modification a) de la loi modifiée du 16 octobre 1934 concernant l'évaluation des biens et valeurs; b) de la loi modifiée du 1er décembre 1936 sur l'impôt foncier; c) de la loi modifiée du 25 février 1979 concernant l'aide au logement; d) de la loi modifiée du 10 décembre 1998 portant création de l'établissement public dénommé «Fonds d'assainissement de la Cité Syrdall»; e) de la loi modifiée du 30 juillet 2002 déterminant différentes mesures fiscales destinées à encourager la mise sur le marché et l'acquisition de terrains à bâtir et d'immeubles d'habitation; f) de la loi modifiée du 19 juillet 2004 concernant l'aménagement communal et le développement urbain; g) de la loi du 21 septembre 2006 sur le bail à usage d'habitation et modifiant certaines dispositions du Code civil.
- <sup>36</sup> Cf. définition de l'UNESCO de 1985.
- <sup>37</sup> Comité des droits économiques, sociaux et culturels, Observation générale n°21 (2009), chap. II A et B.
- <sup>38</sup> Loi du 27 février 2012 portant adaptation du droit interne aux dispositions du Statut de Rome de la Cour pénale internationale, approuvé par une loi du 14 août 2000 portant approbation du Statut de Rome de la Cour pénale internationale, fait à Rome, le 17 juillet 1998 et Loi du 27 février 2012 réglementant les modalités de la coopération avec la Cour pénale internationale.