



FUNDAMENTAL RIGHTS
AND THE RULE OF LAW

**Report on the country visit to Luxembourg
Authorities' observations on the report**

2-3 March 2023



European Economic
and Social Committee

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Six EESC members took part in the country visit to Luxembourg. The delegation met with representatives of civil society, namely civil society organisations (CSOs), social partners and the media on the one hand, and several governmental and judicial authorities on the other. The aim of this report is to faithfully reflect and reproduce the views of civil society. The authorities' views will be reflected in their reply to the report.

1. Fundamental rights related to social partners

Participants described Luxembourg as a melting pot with a diverse workforce, with workers from many different nationalities. The social partners have continuous social dialogue. They come together two times a year and they also discuss social security. There is a **long tradition of tripartite social dialogue** and the parties generally adopt a positive proactive approach, it is a good long-term system.

With regards to freedom of association for employers, a small fringe of employers have complained about mandatory membership of the chamber of commerce, however, in employers' associations there is no mandatory membership.

One participant mentioned that the employer side was concerned about EU initiatives on social dialogue, because 'strengthening social dialogue' was sometimes shorthand for companies being forced to the negotiating table. Instead, there should be incentives for companies to agree to collective agreements. Labour law was advantageous for trade unions, with strong legal and social protections, and no possibility of derogation. It was thus **difficult to obtain advantages in collective bargaining**, leading to a decrease in agreements with only about 5-6 sectoral agreements remaining. As an example, a working time agreement in the cleaning sector was found illegal by the courts and even the trade union that had signed the agreement was ultimately against it in court.

The tendency towards legislation instead of collective bargaining had been increasing in the last 10 years, and also at the European level. The employers felt that what was not obtained with them, trade unions went to the government to obtain. The trade unions on the other hand felt it was the opposite. Negotiations are often tripartite and when no agreement is found, the government decides through legislation. The outcome then depends on the political orientation of the party in power.

The right to strike was not limited to conflicts connected to collective bargaining agreements, and it was allowed to strike in reaction to social or employment policies. The additional protocol to the **European Social Charter** had not been ratified.

One participant mentioned that many companies did not respect the information obligation linked to **democracy at work**, despite research showing its positive socio-economic benefits, and more enforcement tools were needed.

With regards to respect for fundamental rights in companies and due diligence, the trade unions were for binding legislation affecting all sectors and the entire **supply chain**. For fundamental social rights to be implemented there was a need for more efficient control, financial sanctions and public shaming of companies. **Labour inspection** should be well resourced and cross-border cooperation enabled.

With regards to **workers with a disability**, there was a unique structure for work reintegration and people in a protected work situation had equal status. The state provided for special material for assistance, job coaching and awareness raising in work places. However, further inclusion in the real labour market was needed. Although consultations were always granted, they mostly felt like a formality and there was a lack of representation of people with disabilities in decision-making processes that affected them.

2. **Freedom of association and assembly**

Participants mentioned the problems for homeless people during the pandemic, where there had been several problems with access to assistance and health care for them. Participants mentioned that there could **potentially be a risk of self-censorship** for organisations that received large amounts of funding. Some people were in irregular situations, which made it difficult for them to speak up about their plight and to obtain the needed care. Associations were not allowed to distribute written material concerning the possibility to obtain medical care in Luxembourg, such information was only allowed to be given orally, as the authorities wanted to prevent medical tourism.

In Luxembourg the **right to assembly was well protected**, but during late 2021 there had been a number of protests against covid measures that had turned violent. Such protests were unusual in Luxembourg and the police had been unprepared and had to receive help from Belgian police forces. Participants felt that there was a need to legislate to clarify the exercise of the right to protest. Some politicians had made declarations about the protection of police that could potentially be cause for concern. The government had established a working group, but consultation had not taken place at the time of writing. CSOs tried to maintain a dialogue on this, as they wanted more transparency about this reflection process and its potential impact on the right to protest.

Organisations could form freely and the **overall environment for CSOs was favourable**. There was a project among CSOs to create a joint platform; such a platform existed on migration and it meets frequently. A justified reform of the statute of associations or ASBL was underway, but it could potentially create challenges for some very small CSOs. The rules on privacy sometimes complicated life for small associations which had difficulties complying with all the requirements, and CSOs also experienced that they were unable to obtain information because of privacy regulations. Funding requirements were generally reasonable and recipients had become more professionalised. Larger and

more professional CSOs obtained around 80% of the funding, like in many other countries. Human rights organisations did not have many sources of financing unless they were involved in training or provision of social services. Some were working with schools and educating children in participation and empowerment. Others, e.g. the scouts, were more ingrained in the culture and had different relations.

CSOs were consulted on rules concerning associations, and in 2018 when there had been a global assessment of development cooperation there had been frequent discussions with the ministry. CSOs had managed to influence certain points although the general vision had not changed.

In the past CSOs had been implicated during disease outbreaks like monkey pox, tuberculosis and covid among migrants in irregular situations. However, instead of lessons being learnt from earlier good practices they had to start over every time.

3. **Freedom of expression and freedom of the media**

In Luxembourg the media landscape was **complicated due to the use of multiple languages**. Over the last 30 years a lot had changed. Originally newspapers were linked to political parties, and given that everybody knew everybody in a small country, the tradition was not confrontational, however, now that there is a majority of foreigners in the media, there is a tendency to be more direct and critical.

Luxembourg has gone down to 21 in 2022 from 17th place in 2020 in the World Press Freedom Index. There was a law on freedom of expression in the media, but this **did not allow for the same access to information as in comparable countries**. In 2021 there had been a campaign backed by the European Federation of Journalists asking to change the law. The Minister for Media had issued a circular that access to information for journalists should be regulated and pass via communication officers. Journalists took this as a negative sign, as one of the advantages in Luxembourg was easy access to officials and politicians. After a question in parliament, the Minister for Communication had clarified that a second circular would make sure that the communication officer would give an answer within 24 hours as to whether and when the information could be provided. This mostly worked well, however, it was cumbersome to file a complaint in case of non-compliance. Delay in access to information was the biggest problem for journalists. The government mentioned that it was obliged to reply to requests within 24 hours. This requirement was not always easy to meet, so sometimes they asked journalists for more time. However, a new constitution was adopted and would enter into effect in July, after 20 years of drafting, and the principle of access to documents was included in the new constitution.

Participants explained that the government provided **financial support to the media** that was now linked to the number of recognised journalists working for an outlet. It could be debated who was a recognised journalist, but the Press Council was the authority that handed out press cards. It was composed of 15 people representing publishers and 15 representing journalists. The salary paid to journalists had to be paid for journalistic work and be covered by a work contract. Freelancers also had to prove income. In this system bigger newspapers might be privileged, but it was not linked to political affiliations and there was a cap on how much support an outlet could get.

Freedom of expression was guaranteed, there was no control. There have been a few mishaps during the COVID-19 lockdown where press conferences had not been accessible to the public for lack of microphones and cameras.

Foreign influence on the media has not been an issue in Luxembourg and the financial support for the media meant that the **media landscape was healthy in Luxembourg**.

4. **The right to non-discrimination**

The constitution makes a distinction based on citizenship, although around **half of the population does not have citizenship**. Non-citizens can participate in municipal and EU elections. Until 2019 you had to renounce your former nationality to become a Luxembourg citizen. However, the Luxembourgish language requirement remained an obstacle to obtain citizenship. Some CSOs had been pushing for more rights for non-nationals. As about 50% of residents were not voting, it meant that a large part of the population was not represented and this was increasingly becoming a problem, notably with regards to housing. Housing was the biggest problem in Luxembourg, which was also a discrimination issue. Housing had long been a problem in Luxembourg, but only now that it was also affecting voting citizens had it become a political issue. One participant estimated that only 3% of the population could access home ownership. It was also becoming a recruitment issue, as it was difficult to recruit due to the housing situation. The winter truce had also not been working well, with many families evicted during the winter period.

According to participants, although there were no statistics, there were three groups of immigrants mainly affected by **discrimination**: Portuguese, Muslims and Black people.

Discrimination also affected education, as the educational system was not adapted to the multicultural situation and led to **different educational attainment outcomes**. According to participants, many immigrants and their descendants mostly got technical education, in comparison to natives where education attainment was higher. They ascribed this to language issues, as many schools offered education in German, whereas many migrants spoke mainly French, and this later translated into the job market. Furthermore, Belgian, German and French diplomas were recognised, but not Portuguese. The government pointed out that they were making efforts to open international schools and provide a larger offer and that there was a large offer of education in different languages.

Participants mentioned that **language requirements were also a barrier** for access to the job market, where it is a requirement to speak two languages. In the public administration, you also had to speak Luxembourgish. One participant mentioned that the first Muslim woman admitted to the bar had to remove her veil when sworn in.

Some participants also felt that a recent security package on drugs, targeting the main station area, indirectly signalled that migrants were criminals as they predominantly lived in this area. Despite multiculturalism in Luxembourg, racism was present and there had been differences in treatment of Ukrainian and Syrian refugees. Participants believed that the Luxembourgish authorities had been sleeping for too long on **racism**, as well as on women's rights. The FRA study *Being black in the EU* showed high levels of discrimination in the EU, including on the basis of skin colour. According to a participant, black children were more often placed in institutions or foster care in Luxembourg. Following lobbying from CSOs, the government wanted to introduce an action plan against racism. Participants were impatient to see this implemented, but no persons of colour, nor CSOs representing them, had been consulted. Since 2017 CSOs have called for an observatory on racism, but there was

only an inter-ministerial envoy with limited competences. Some participants felt that there was no need for an observatory, but called for better use of existing structures and inclusion of people of colour. The government pointed out that Luxembourg's very existence was due to foreigners, and that it was preparing a new bill on immigration.

In recent years there had been some **progress on hate speech**. The press showed sensitivity, but on the web hate speech was more prevalent due to lack of content moderation. There was a need for more awareness raising, including among journalists.

Participants found **refugee facilities lacking**. Due to the problematic housing situation in Luxembourg, it was also difficult to be housed once a residence permit was granted, leading to overcrowded facilities. Participants mentioned that out of 13 facilities, one had rooms without daylight, and despite calls to close it, it was still open at the time of the EESC's visit. It took too long to appoint ad hoc administrators for unaccompanied minors, and this was a big problem because it prevented the child from accessing schooling.

There had been progress as regards the **rights of the child**, but the **juvenile justice system was outdated**. There had been three attempts to reform it, but none adopted. Child protection was unnecessarily judicialised. The placement of a third of the children in institutions had been approved by a judge, and children were not automatically designated an independent lawyer to represent them. In many other countries it was the bar that would make the selection independently from the court system. Many children were unaware of, and were not advised about, their right to have a lawyer. If a child is in conflict with the law, they should be able to change an appointed lawyer to one of their choosing. Pretrial detention of children happened and children could be imprisoned for three months, with the possibility of prolongation. Children up to 15 years stayed in institutions for youth, and at the time of the visit three young people about 16-17 years old were held in an adult prison. Luxembourg had not implemented the recommendation for child-friendly justice by the UNs Committee on the Rights of the Child. There was still no minimum age for criminal responsibility and no specific criminal law for minors.

Gender equality remained an issue, with women still bearing the brunt of household chores and being underrepresented in positions of power. Although the official **gender pay gap** is only 0.7%, there are big variations in sectors, e.g. finance, where it is more like 30%. One participant mentioned that in the legal profession progress has been made, but at senior partner level there was still a big gender gap. Luxembourg had ratified the Istanbul Convention, but it still needed to be fully implemented. CSOs called for an extension of the period of limitation for reporting rape from 10 to 30 years, as well as more action with regards to psychological violence, harassment etc., in addition to the measures against domestic violence. **Domestic violence** was also exacerbated by the housing crisis. A child would, for instance, be given to a violent parent who had housing, with the victim losing both housing and child. This was more pronounced for non-nationals who have no local family or support network.

A participant mentioned that instances like the Centre for Equal Treatment, the Consultative Human Rights Commission and the Ombudsman were not direct complaints mechanisms. A participant mentioned, for instance, that the long-term obligation to employ people with disabilities was not enforced and there was no follow-up or monitoring.

5. Rule of law

According to the participants, the **overall situation for the rule of law was positive**. The creation of a National Council of Justice had just been voted for at the time of the visit, which would be a supervisory body for judges, to which citizens would be able to complain about the justice system or judges (it entered into force on 1 July 2023). There was also a law pending about increasing legal aid to be financed by the government.

Participants from the **legal profession mentioned that they had good relations with the Ministry of Justice**. They felt that the communication was good and they were heard. Whistle-blower legislation was also satisfactory. The bar association autoregulated and was in charge of disciplining lawyers for lack of respect for professional rules in order to protect the profession.

There have been calls to reform the Law of 22 August 2003 establishing an **Ombudsman** to give more competences to the Ombudsman, such as filing *amicus curiae* in court. The Ombudsman's mandate included receiving complaints about administrative decisions and monitoring prisons. Complaints could also concern return of refugees, placement of children and actions of private operators carrying out public work, for example with vulnerable persons. The major issue they faced was the lack of social housing, another challenge was mental health, which made annual administration and documentation requirements difficult to fulfil for social housing or unemployment benefits.

One area of concern was highlighted by participants. **Professional secrecy** was never an issue before, but recently investigative magistrates more often accepted to seize documents from lawyers' offices. This was justified by a distinction between the lawyers' role as an advisor or a defender, but there was no legal basis for this distinction, as secrecy applies to all activities. The Council Chamber validated this interpretation in the interest of finding the truth, but participants disagreed. Clients must be able to share everything with their lawyer, and their communication should not be used to help convict clients. To combat money laundering there was more and more pressure to target lawyers, but although the participants agreed with this aim, lawmakers, including at EU level, should respect the need for professional secrecy and let the bar association autoregulate on this point.

There has always been a good relationship between judges and lawyers, but the atmosphere had tensed up slightly in some instances, notably due to a case at the time of writing where a lawyer had been accused of undue pressure of a judge and contempt of court. This was a cause for concern, as the lawyer had worked 50 years in the bar and was previously a judge himself. One participant believed that there could be instances where, to uncover sensitive information, a lawyer could be made a suspect instead of a witness to oblige the lawyer to abandon the client and remove the obligation to be bound by professional secrecy. The criminal code was not clear enough in this area. There were already sufficient safeguards in place to prevent lawyers from contributing to crimes, as lawyers were bound by a strict moral code, although, as with other kinds of professional secrecy, there existed the potential for abuse. However, tools to fight complex crime still had to be proportionate.

The Ombudsman had also been affected by the duty to report. According to a participant, the Ombudsman had once been accused of helping somebody who was trying to avoid taxes. Participants felt that it was very important that the authorities should refrain from interfering in the independence of

lawyers and the Ombudsman and that ethical codes should apply instead. There were ongoing discussions with the authorities on how to resolve this legal ambiguity.

Access to justice was facilitated by legal aid, which is not restricted to nationals and residents, commuters can also benefit from assistance. With regards to **effectiveness of justice**, there had been much improvement with regards to financial crime over the last 10 years. The financial criminal intelligence unit had grown and preventative efforts had been deployed, but sufficient means were still lacking to suppress such crime. At the prosecutor's office, there was a team on **economic crime**, but the police did not have sufficient resources for investigation, including IT-based investigation, and judges were not specialised in financial crime. The bar association had been calling for a specialised court or chamber for financial crime.

**Authorities' observations on the report on the
visit to Luxembourg,
2-3 March 2023**

Observations by Luxembourg on the draft report on the country visit to Luxembourg on 2-3 March 2023 by the European Economic and Social Committees' Fundamental Rights and Rule of Law Group

Luxembourg welcomes the work of the EESC's Fundamental Rights and Rule of Law Group and would like to highlight the constructive discussions that have taken place on 2-3 March 2023 in Luxembourg.

While taking note of the observations made in the draft report following this visit, as received on 26 January 2024, the Luxembourg authorities use this occasion to present a number of observations.

The following ministries and entities have been involved in the drafting process of this statement: Ministry of State, Department of Media, Connectivity and Digital Policy; Ministry of Home Affairs; Ministry of Family Affairs, Solidarity, Living Together and Reception of Refugees; Ministry of Justice; Ministry of Health and Social Security; Ministry of Labour; as well as the Ministry of Foreign and European Affairs, Defence, Development Cooperation and Foreign Trade which has been in charge of the coordination of this statement.

Should the Fundamental Rights and Rule of Law Group have any further questions based on these additional observations, the above-mentioned authorities remain at its disposal for further clarifications.

As a general remark, Luxembourg draws the attention of the EESC's Fundamental Rights and Rule of Law Group to the annual rule of law reports published by the European Commission, which also include a dedicated country chapter on Luxembourg. The Commission's reports and their underlying methodology constitute an important reference of the Luxembourg authorities as regards the discussion and evaluation of the rule of law situation in the Union and the Member States.

1. Fundamental rights related to social partners

As concerns *mandatory membership to professional chambers*, employees of the private sector pay an annual mandatory membership fee for the Chamber of Employees, established by the law of 13 May 2008 creating a single status for employees with private sector status and merging the Chamber of Private Employees and the Chamber of Labour. Like the Chamber of Commerce, the Chamber of Employees is one of five professional chambers created by the Luxembourgish legislator and each one of them represents the interests of a specific professional category. Any person who practices a profession falling within the competence of one of the professional chambers is inevitably affiliated to this chamber.

As regards *collective agreements*, it is true that they are no longer as easy to reach among social partners as in the past. The coalition agreement 2023-2028 of the new government provides for the revision of the legal provisions related to collective agreements, among other things, to enable work reorganization and improvement of working conditions, particularly concerning the work life balance. One of the objectives is to facilitate agreements between employers and employees while ensuring that these discussions take place on an equal footing.

Nowadays, five institutions guarantee a *permanent social dialogue on a tripartite basis*: the Economic Committee, the Economic and Social Council, the Tripartite Coordination Committee, the Tripartite Steel Conference and the Permanent Committee on Labour and Employment. In this context, several tripartite agreements were signed by the social partners over the last years, as for instance the Solidaritéitspak 1.0–3.0 in order to support households' purchasing power and companies' competitiveness.

As concerns '*democracy at work*', the Labour and Mines Inspectorate is responsible for monitoring the application of the provisions in the area of staff delegations (organization and functioning of delegations, withholding of information by employers, the right of participation of staff delegations). Any obstruction carried out intentionally to setting up a staff delegation, to the free appointment of its members, to its regular functioning or to the appointment of an Equal Opportunity Officer or a Health and Safety Representative, is punishable by fines ranging from EUR 251 to EUR 15 000.

2. Freedom of association and assembly

Regarding *access to assistance and health care during the pandemic for homeless people*, the facilities for homeless people financed by the Ministry of Family Affairs, Solidarity, Living together and Reception of Refugees were all accessible during the pandemic. Particularly worth emphasizing is the so-called 'Winter Action' (WAK), which is a humanitarian action introduced by the government in 2001, aiming to provide shelter to homeless people during periods of extreme cold. The WAK comprises a day and a night foyer and offers temporary accommodation, meals, access to health facilities and services such as on-call nurses to meet the basic needs of homeless people. The WAK is organized by the association 'Dräieck asbl' with the financial support of the Ministry of Family Affairs, Solidarity, Living together and Reception of Refugees and usually runs from 15 November until 15 April.

During the COVID-19 crisis, to allow homeless people to comply with curfew and other measures introduced by the Luxembourgish government to combat the pandemic, the 2019/2020 and 2020/2021 editions of the WAK were accessible until the 30 June. In addition, the 2020/2021 edition was launched early on 2 November.

Furthermore, special health measures were put in place, to detect and prevent COVID-19 among the beneficiaries of the WAK, including the distribution of rapid antigen tests and face masks. On eight dates in June and March 2022, a voluntary Covid vaccination campaign was organized for homeless people on the premises of the WAK as well as in the locations of associations working in the field of homelessness or in vaccination centres, reaching several hundred homeless people and people in irregular situations. These vaccination campaigns were organized by the Ministry of Health, in particular the mobile vaccination teams of the Directorate of Health, and the Ministry of Family Affairs, Solidarity, Living Together and Reception of Refugees, in close collaboration with the Luxembourgish associations working in the field of homelessness. A similar measure was initiated again at the end of 2021 for booster vaccinations and first-time vaccinations.

As part of the fight against COVID-19, a special facility had been set up in one of the Winter Action buildings to care for homeless people awaiting COVID-19 test results. In the event of suspected infection, homeless services were allowed to use the second floor of the so-called Bâtiment B building to isolate people until they got their test results. Where necessary, homeless people that were testing positive for COVID-19 were then transferred to specific facilities dedicated to their care.

Concerning *workers with a disability*, it has to be noted that they are free to apply for the disabled employee status, giving them access to specific aids and employment services in order to facilitate long-term work integration (i.e. special professional equipment, adaptation of the workstations, tailored job guidance and training, allowance for the severely disabled). Luxembourg encourages the inclusion of workers with a disability in the general labour market while at the same time offering employment in sheltered workshops. Workers with a disability have the same rights as workers without a disability, and in both cases, the national Labour Code applies.

On another note, there are *no restrictions for organisations in the healthcare sector* that receive funding from the government in the area of healthcare.

A multitude of *information material concerning access to healthcare* was made available by the authorities during the pandemic. Its efforts to translate the material in many different languages was notably highlighted as a best practice in the OECD's evaluation report of Luxembourg's Covid response and bears witness to the fact that no efforts were spared to reach all citizens living in Luxembourg.

In Luxembourg the *right to assembly* is a fundamental right. During late 2021, some of the protests against COVID-19 measures turned violent. Since such large scale protests are unusual in Luxembourg and since the Grand-Ducal Police did not have the necessary material or human resources to accompany such events, they asked Belgian police forces for support. In addition, the government has established a working group charged with drafting a bill to introduce a legal framework for the orderly running of gatherings, guaranteeing the constitutional right of peaceful assembly and open-air gatherings. During the drafting process, the working group has already consulted with unions and CSOs, in order to clarify the exercise of the right to protest and to enable police forces and communal authorities to prepare for such events, keeping in mind the safety of all citizens and participants, as well as of the police forces.

3. Freedom of expression and freedom of the media

The Luxembourg law guarantees freedom of expression and the protection of sources ([Loi modifiée du 8 juin 2004 sur la liberté d'expression dans les médias](#)) and the Luxembourgish media landscape is rich and dynamic due to the use of multiple languages.

As regards *financial support to the media*, the [Law of 30 July 2021 on an aid scheme in favour of professional journalism](#) is based on 3 pillars: preserving pluralism, the promotion of pluralism, and citizen media. In order to support media pluralism and diversity, the second scheme is dedicated to start-ups and new entrants whereas the third pillar is aimed at non-for-profits. This press aid regime of more than EUR 10 million establishes a technologically neutral framework for online and offline media. The annual allocation is calculated based on the number of professional journalists (journalists with a press card from the Press Council) with a work contract (EUR 30 000 per year per journalist). It therefore explicitly recognizes and values the journalistic work. In addition to this, each beneficiary receives an annual share (EUR 200 000 per year) regardless of the size of the media. There are several caps (per media and per media group) in order to avoid effects on media concentration.

The press aid scheme also aims at inclusion: publications in every language spoken by at least 15% of the population are eligible (currently: German, French, English, Portuguese and Luxembourgish). In

addition, the law encourages accessibility of the media for people with disabilities by requiring the beneficiaries to disclose in their annual report what measures they have taken in this respect.

Access to information is regulated by the [Loi du 14 septembre 2018 relative à une administration transparente et ouverte](#), which guarantees the right to access documents to everyone (therefore also journalists) within one month, as is common practice also in other European countries. In addition to this, a circular letter by the then Prime Minister (*'Circulaire Bettel 2'*) established a procedure for civil servants to respond to journalists' requests for information, in order to improve the flow of information and respect the short deadlines required by journalistic work. The *circulaire* therefore introduced the obligation for civil servants to reply to journalists within 24 hours. If it is not possible to reply with the information that has been asked for in this timeframe, civil servants are required to give an estimate of the time needed to reply, or they have to indicate the legal reasons why the information cannot be provided.

4. The right to non-discrimination

According to the *National Survey on Racism and Racial Discrimination*, there are generally four population groups that experience discrimination more than others: Portuguese, Muslims, Black people and Immigrants from sub-Saharan Africa. Link to the survey:

<https://mfsva.gouvernement.lu/dam-assets/publications/rapport-etude-analyse/racisme/Rapport-d-etude-Enquete-Racisme.pdf>

As such, this survey confirms that Luxembourg – despite its multiculturalism and very large share of non-Luxembourgish residents – is not a country devoid of racism and discrimination. While the Luxembourgish authorities have long favoured a mainstream approach to combating these phenomena, since 2020 they have been developing more targeted actions in the fields of research, capacity-building, awareness-raising, legislation and policies. Moreover, Luxembourg is in the process of designing a National Action Plan against Racism and Racial Discrimination. This Plan is drawn up in collaboration with public stakeholders, human rights organizations, and civil society organizations. The fight against racism is also an integral part of the law of 23 August 2023 on living together in an intercultural way and modifying the law of 8 March 2017 on the Luxembourgish nationality ([Loi du 23 août 2023 relative au vivre ensemble interculturel et modifiant la loi modifiée du 8 mars 2017 sur la nationalité luxembourgeoise](#)), which has replaced the law on integration.

These measures appear to have a positive effect, since the results of the latest Fundamental Rights Agency survey (2023) show a clear improvement in the situation, with a significant reduction in the feeling of discrimination among affected population groups (on average a reduction by 13%).

As regards the situation of migrant groups seeking international protection: the National Reception Office (NRO), which is the administration in Luxembourg responsible for organizing the reception of applicants for international protection and managing accommodation facilities reserved for the temporary accommodation of applicants for international protection and people eligible for subsidiary protection, acknowledges that issues of racism between different migrant groups have been observed within its accommodation facilities. These occurrences could be explained by the fact that the migrant groups have been granted different statuses, i.e. beneficiaries of temporary protection (BTP) on the one

hand, and applicants for international protection (AIP) on the other hand. In any case, the NRO works towards creating an environment that promotes a culture of mutual respect, understanding, and solidarity among the accommodated people. AIPs and BPTs have equal access to a state-run structure of the NRO and they are also provided with the same support such as a financial allowance (depending on the size of the household), an allowance to purchase clothing, and an allowance to purchase school supplies.

As concerns *the refugee facilities*, the National Reception Office (NRO) has in total 68 facilities (+3 emergency accommodation facilities), not 13. By the end of December 2023, the NRO was accommodating a total of 5 840 individuals across its 68 housing facilities, with a net occupancy rate of 95.25%. The numbers highlight the urgency of the situation and underscore the need for both short-term relief measures and long-term sustainable solutions to ensure the well-being and integration of those seeking refuge in Luxembourg. Currently, Luxembourg still counts over 200 new arrivals in the NRO accommodation network every month (214 in January 2024 and 233 in December 2023), with a record number in July 2023 with 429 arrivals.

On the topic of *hate speech*, although there is no legal definition of hate speech as such, several provisions of the Criminal Code deal with malicious comments, depending on whether the message is addressed to a specific person, or in a diffuse manner. In the first category, the following articles of the Criminal Code apply: Article 275 contempt of a member of the government or a magistrate (*l'outrage à un membre du gouvernement ou à un magistrat*), Article 442-2 on obsessive harassment (*harcèlement obsessionnel*), articles 443 to 452 attacks on the honour or consideration of people, namely slander, defamation and insult (*les atteintes portées à l'honneur ou à la considération des personnes, à savoir la calomnie, la diffamation et l'injure*). The second category covers diffuse messages of hatred online and offline referred to in point 1 of Article 457-1. In this context, the jurisprudence unanimously recognizes that the legislator intended to demonstrate its firm intention to fight racism and intolerance in all its forms, including anti-Semitism. It established the principle according to which it is not necessary for the messages to contain an exhortation to hatred, violence or discrimination but it is sufficient, for the offense to be constituted, that the messages are likely to arouse these feelings. In accordance with the jurisprudence of the European Court of Human Rights, the national courts and tribunals have held that articles 454 et seq. of the Criminal Code, therefore including Article 457-1 of the Criminal Code, constitute a necessary measure within the meaning of Article 10 paragraph 2 of the European Convention on Human Rights.

Furthermore, Article 80 of the Criminal Code has introduced a general aggravating circumstance for crimes and offences committed for a motive based on discrimination, as set out in Article 454 of the Criminal Code (<https://legilux.public.lu/eli/etat/leg/loi/2023/03/28/a185/jo>). This Article gives the courts the possibility to hold that the perpetrator of a crime or an offence committed on the grounds of an element listed in Article 454, may be sentenced to an increased penalty or fine. The hate motives, which can be taken into account as an aggravating circumstance, are the following: origin, skin colour, gender, sexual orientation, gender reassignment, gender identity, family status, age, state of health, disability, morals/customs, political or philosophical opinions, trade union activities, actual or assumed membership or non-membership of a particular ethnic group, nation, race or religion. BEE SECURE, which is an initiative of the Government, implemented by the National Youth Service and in particular the Grand Ducal Police and the Office of the Prosecutor General, is part of the European INSAFE networks (awareness centres and helplines) and INHOPE (illegal content reporting centres). Regarding online hate speech, BEE SECURE plays its role as a national platform (<https://stopline.bee-secure.lu>)

for reporting potentially illegal content, which will be conceptually analysed and forwarded to the law enforcement authorities for further proceedings and final decision. In 2022, BEE SECURE also launched the anti-hate speech campaign called 'No Hate Online', which promotes more mutual respect on the Internet and aims to reduce hate speech. Additionally, the campaign aims to provide information on freedom of expression and its legal limits. This program can be considered a promising practice in combating online hate speech, as it contributes to awareness, education, training and the use of alternative discourse.

5. Rule of law

As concerns the *contempt of Court case*, a lawyer registered with the Luxembourg Bar Association filed an application before the European Court of Human Rights (ECtHR) after being convicted for contempt of Court according to Article 275 of the Luxembourgish Criminal Code. The application has been declared admissible on 19 October 2023 and the government has submitted its observations to the ECtHR. The case is currently pending.



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Printed by the EESC-CoR Printing and Distribution Unit, Belgium
EESC-2024-21-EN

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Publications Office
of the European Union



Print
QE-05-24-213-EN-C
ISBN 978-92-830-6443-5
doi:10.2864/410754

PDF
QE-05-24-213-EN-N
ISBN 978-92-830-6439-8
doi:10.2864/699881

EN