



---

**Human Rights Council**  
**Working Group on the Universal Periodic Review**  
**Forty-third session**  
1–12 May 2023

## **Summary of stakeholders' submissions on Luxembourg\***

### **Report of the Office of the United Nations High Commissioner for Human Rights**

#### **I. Background**

1. The present report was prepared pursuant to Human Rights Council resolutions 5/1 and 16/21, taking into consideration the periodicity of the universal periodic review and the outcome of the previous review.<sup>1</sup> It is a summary of 11 stakeholders' submissions<sup>2</sup> for the universal periodic review, presented in a summarized manner owing to word-limit constraints. A separate section is provided for the contribution by the national human rights institution that is accredited in full compliance with the Paris Principles.

#### **II. Information provided by the national human rights institution accredited in full compliance with the Paris Principles**

#### **III. Information provided by other stakeholders**

2. The Advisory Commission on Human Rights of the Grand Duchy of Luxembourg noted with satisfaction the ratification of the International Convention for the Protection of All Persons from Enforced Disappearance and the Council of Europe Convention on Preventing and Combating Violence against Women and Domestic Violence, and welcomed the introduction into the Criminal Code of the offence of genital mutilation through the Act of 20 July 2018 on ratification of the latter Convention. However, the Commission noted that the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families and the International Labour Organization Domestic Workers Convention, 2011 (No. 189), had still not been ratified.<sup>3</sup>

3. The Commission noted that the Interministerial Human Rights Committee, established in 2015 and chaired by the Ministry of Foreign and European Affairs, was responsible for ensuring the implementation of the State's human rights obligations, in consultation with the national human rights institutions (NHRIs) and civil society. While the Commission welcomed this initiative, it regretted that the format of the Committee's meetings did not allow for more in-depth exchanges between the various stakeholders.<sup>4</sup>

---

\* The present document is being issued without formal editing.



4. The Commission has found that it is being approached much more frequently by the Government and by other stakeholders. However, it found it regrettable that there was very little feedback on the extent to which its recommendations were taken into account.<sup>5</sup>

5. Regarding the legislative framework surrounding issues of equal treatment, the Commission regretted that the constitutional review currently under way proposed one provision on the equality of Luxembourgers before the law and another relating to non-Luxembourgers, instead of enshrining in the Constitution the principle of equality of “all persons” before the law.<sup>6</sup>

6. In addition, the grounds for discrimination provided for in the Act of 28 November 2006 on equal treatment could be broadened and made more inclusive. Nationality should be explicitly included as one of the grounds for discrimination justifying intervention by the Centre for Equal Treatment.<sup>7</sup>

7. The Commission called on the legislator to give the Centre for Equal Treatment the right to receive complaints, conduct investigations, take legal action and participate in judicial (not just civil) and administrative proceedings, and to substantially increase its budget and staffing.<sup>8</sup>

8. The Commission welcomed the Government’s willingness to prioritize certain issues by developing national action plans. In the October 2020 National Action Plan on Gender Equality, however, it noted an absence of any deadlines for implementation, concrete measures, indication of the agencies responsible for the various actions, progress indicators or budget information.<sup>9</sup>

9. As the national rapporteur on human trafficking, the Commission noted that efforts have been made to combat trafficking. It recalled that, in its last two reports (2019 and 2021), it had pointed to a sharp rise in trafficking for labour purposes. In that context, it recommended legislative changes to bring trafficking explicitly under the jurisdiction of the Labour and Mines Inspectorate. The rapporteur also considered it crucial to involve trade unions in the development of actions to combat trafficking. Another recommendation was to increase the human and technical resources of the criminal investigation department and the Public Prosecutor’s Office to enable them to do their work, including in the prosecution of traffickers.<sup>10</sup>

10. The Commission also regretted that the National Action Plan to combat human trafficking, which dates back to 2016, had still not been updated. It recommended that the Government should present a new action plan as soon as possible that included concrete, time-bound measures, with a focus on trafficking for labour purposes.<sup>11</sup> It regretted that the Act approving the Protocol to the International Labour Organization (ILO) Forced Labour Convention, 1930 (No. 29) did not provide for concrete and effective measures to strengthen efforts to combat forced labour.<sup>12</sup>

11. The Commission welcomed some of the Government’s efforts on corporate human rights compliance but noted a lack of transparency or of concrete commitments on the Government’s part, especially with regard to the development of national legislation and to the proposed European Union directive on corporate sustainability due diligence.<sup>13</sup>

12. The Government had adopted two national action plans on corporate compliance with human rights, one in 2018 and another in 2019. Although these action plans had been developed in discussions between government actors, civil society, the private sector, trade unions and national human rights institutions, the Commission regretted that the Government had not allowed more time for consultation with the various stakeholders. In addition, the actions and measures proposed in the action plans were not sufficiently specific or comprehensive and relied on corporate goodwill. The concept of binding obligations was wholly absent.<sup>14</sup>

13. The Commission welcomed the presentation of the reform of youth protection, which aimed to bring Luxembourg into line with European and international children’s rights law and the latest concluding observations of the Committee on the Rights of the Child. This reform provided for a clear separation between procedures for the protection of minors and procedures for the criminal prosecution of minors, while guaranteeing the rights of the child and his or her family, for example by establishing procedural guarantees, setting the age of

criminal responsibility, not permitting children to be placed in a prison for adults, and establishing the principle that parental authority shall remain with the parents in the event of placement.<sup>15</sup>

14. As for minors in a migration situation, the Commission regretted that the membership of the Commission on the best interests of unaccompanied minors, which intervenes in the event that the Minister of Asylum decides to return a minor, was not neutral or multidisciplinary.<sup>16</sup>

15. The Commission recommended that the Government should adopt the motto “Nothing about us without us” in order to ensure genuine involvement of those concerned, in any measures taken on the rights of persons with disabilities.<sup>17</sup>

16. The Commission noted that Luxembourg did not currently have a legal framework prohibiting or restricting the practice of sex assignment to a newborn intersex child. According to information available to the Commission, a bill was being drafted to prohibit such practices in the absence of medical justification. It invited the authorities to continue to pursue the principles of depathologization and self-determination in relation to transgender and intersex people. It also regretted the lack of any legal framework to underpin a specific ban on conversion therapy.<sup>18</sup>

17. Regarding access to the labour market for applicants for international protection, the Commission recommended reforming the current procedure whereby they must wait six months before they could apply for a work permit. It noted that the system was not very accessible, presenting numerous obstacles and being highly restrictive in nature.<sup>19</sup>

18. Lastly, regarding family reunification, the Commission welcomed the decision to extend from three to six months the time limit for beneficiaries of international protection to obtain family reunification and to exempt them from the conditions imposed in other situations. However, it drew the Government’s attention to the many obstacles, including financial and administrative ones, that the beneficiaries of international protection faced in order to obtain family reunification.<sup>20</sup>

#### **A. Scope of international obligations<sup>21</sup> and cooperation with human rights mechanisms**

19. The Stichting Broken Chalk (BCN) urged Luxembourg to push for the ratification of the International Convention on the Protection of the Rights of All Migrants Workers and Members of Their Families within the European Union (EU), so that Luxembourg as well as other EU members can become members of that treaty.<sup>22</sup>

20. The Council of Europe Group of Experts on Action against Trafficking in Human Beings (CoE-GRETA) encouraged Luxembourg to ratify International Labour Organisation Convention No. 189 on Decent Work for Domestic Workers.<sup>23</sup>

21. The Council of Europe (CoE) reported that Luxembourg had signed but not yet ratified the CoE Framework Convention for the Protection of National Minorities.<sup>24</sup>

22. The International Campaign to Abolish Nuclear Weapons (ICAN) urged Luxembourg to sign and ratify the Treaty on the Prohibition of Nuclear Weapons, as a matter of international urgency.<sup>25</sup>

23. The Ombudsman for Children and Adolescents recommended that, in accordance with the request of the Committee on the Rights of the Child, Luxembourg should withdraw its reservations to the Convention on the Rights of the Child, regardless of the outcome of the legislative reforms currently under way, since the reservations were not compatible with the rights of the child or with the best interests of the child.<sup>26</sup> The Ombudsman pointed out that the groups specifically affected by these reservations were children born outside the framework of civil marriage or the so-called “traditional” family (i.e., a married mother and father who have a biological child).<sup>27</sup> The Luxembourg Committee for UNICEF (UNICEF-Luxembourg) made a similar recommendation.<sup>28</sup>

## **B. National human rights framework**

### **Constitutional and legislative framework**

24. In 2019, the CoE European Commission for Democracy through Law (CoE-Venice Commission) issued an opinion on the proposed revision of the Constitution and recommended that Luxembourg clarify the rules on human rights and rights and freedoms and, in particular review the various categories of rights and freedoms, ruling out all restrictions only in respect of absolute rights, as guaranteed by international law; guarantee the principle of equality in general; and include a general provision on the hierarchy of rules or at least explicitly indicate the status of international law.<sup>29</sup>

25. The Ombudsman noted that progress had been made on constitutional reform since the previous universal periodic review cycle. Article 15 (5) of the Constitution now stated that: “In all actions concerning the child, the interests of the child shall be given primary consideration...”. Although the Ombudsman and others working for children’s rights would have liked the principle of the “best interests of the child” to have been included, it was nevertheless an important step forward.<sup>30</sup>

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

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

#### *Equality and non-discrimination*

26. The Office for Democratic Institutions and Human Rights of the Organisation for Security and Co-operation in Europe (OSCE/ODIHR) observed that support for hate crime victims was provided as part of the general victim support system in Luxembourg. OSCE/ODIHR recommended that Luxembourg define victims of hate crimes in legislation.<sup>31</sup>

27. While noting steps taken by the Government, the European Centre for Law and Justice (ECLJ) noted reports indicating that incidents of antisemitism had doubled since 2019 and urged the Government to provide more support for those affected by antisemitic hate crimes and punish those who were performing such acts.<sup>32</sup>

28. The CoE European Commission against Racism and Intolerance (CoE-ECRI) reported that Luxembourg had adopted a National Action Plan on Integration in 2018 and encouraged the authorities to continue to implement the action plan and to achieve all its objectives by implementing the measures set out in the plan.<sup>33</sup>

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

29. The CoE Group of States Against Corruption (CoE-GRECO) welcomed the fact that the Chamber of Deputies approved the draft revision of Chapter VI of the Constitution, which would enshrine the independence of the prosecution service at the highest legal level. Full implementation of its recommendations remained pending, however, until the final adoption of this chapter and the setting up of the National Judicial Council.<sup>34</sup>

30. The Ombudsman noted that, since the previous cycle, Luxembourg had made some progress worth noting, and in particular had launched a complete overhaul of the youth protection system, with the introduction of three bills on the rights of child victims and witnesses of crime, on child and family protection and assistance, and on juvenile criminal law, to establish a system of justice for children. The texts of the bills still needed changes, but the Ombudsman said the process looked promising.<sup>35</sup>

31. UNICEF-Luxembourg noted that some of the accepted recommendations from the previous cycle<sup>36</sup> had still not been implemented. It noted that bill No. 7991, introduced on 19 April 2022, established a criminal jurisdiction for minors and expressly provided that children could no longer be placed in a prison for adults. This bill was part of a necessary reform of the child welfare system that would result in child protection being dealt with

separately from criminal matters applying to children in conflict with the law. However, the current legislation still permitted a child to be put in prison.<sup>37</sup>

32. The Ombudsman made similar comments and also indicated that there was still a conspicuous lack of procedural safeguards in the legislation and the practical arrangements for placing children in care or other institutions (and thus depriving them of their liberty) for reasons of protection, education or custody. Access to rights must be improved, including the procedure for appointing a lawyer for children.<sup>38</sup> The Ombudsman noted that the relevant recommendations from the previous cycle<sup>39</sup> could not be considered fully implemented until the bill had been passed into law.<sup>40</sup>

33. UNICEF-Luxembourg recommended that Luxembourg should immediately stop transferring children to Luxembourg Prison and should apply alternatives such as the other custody measures provided for in article 24 of the Youth Protection Act of 10 August 1992.<sup>41</sup> The Ombudsman recommended that Luxembourg should move as quickly as possible to adopt the new legal framework on justice for children, and in the meantime immediately put in place practices that respected children's rights and applied the best interests of the child and diversion from the courts as basic tenets of child-friendly justice, in order to promote rehabilitation and resocialization.<sup>42</sup>

#### *Right to participate in public and political life*

34. OSCE/ODHIR reported that, with respect to the election dispute mechanism, several interlocutors of a Needs Assessment Mission it had deployed in 2018, had raised concerns about the lack of judicial control over the validation of election results. It also noted, however, that the interlocutors stated that there was no need of observations activity, while noting the potential usefulness of an external assessment. No significant concerns were raised relating to the respect for fundamental freedoms, the campaign environment, and Election Day proceedings. Based on these findings, the Needs Assessment Mission did not recommend an election-related activity.<sup>43</sup>

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

35. The CoE Group of Experts on Action against Trafficking in Human Beings (CoE-GRETA) noted that all the identified victims in the period 2018-2021 were foreign nationals and that the majority were men, trafficked for the purpose of labour exploitation, which had emerged as the predominant form of exploitation, followed by forced begging and sexual exploitation. The number of cases of trafficking for the purpose of labour exploitation had risen considerably, partly because of the increase in the number of labour inspectors who had been trained on trafficking in persons. This situation had put a lot of pressure on the organised crime division of the police, which had difficulties, due to a lack of investigators, in investigating all instances of exploitation detected by labour inspectors.<sup>44</sup>

36. ECLJ reported that Luxembourg had addressed human trafficking by increasing resources, providing aid for the victims and training for law enforcement. Despite this, ECLJ expressed concern that Luxembourg was undermining its efforts by providing lenient sentences for human trafficking.<sup>45</sup> CoE-GRETA also noted with concern the low prosecution rate, the absence of effective sentences and the low level of seizure of perpetrators' assets, which engendered a feeling of impunity and undermined efforts to encourage victims to testify against traffickers.<sup>46</sup>

37. CoE-GRETA urged Luxembourg to take additional measures to ensure that trafficking cases were investigated proactively and prosecuted effectively and lead to effective, proportionate and dissuasive sanctions; and to ensure that all relevant professionals were trained regularly and systematically on preventing and combating trafficking and identifying victims and referring them to assistance.<sup>47</sup>

38. CoE-GRETA also recommended that Luxembourg take additional measures to facilitate and guarantee access to legal aid for victims of trafficking,<sup>48</sup> and to identify victims of trafficking of all forms of exploitation and ensure that the identification of presumed victims was not dependent upon the opening or continuation of criminal proceedings.<sup>49</sup>

*Right to work and to just and favourable conditions of work*

39. CoE European Committee of Social Rights (CoE-ECSR) reported that workers, exposed to residual occupational health risks, despite the existing risk elimination policy, were not entitled to appropriate compensatory measures.<sup>50</sup>

40. CoE-ECSR reported that it had not been established that persons with disabilities were guaranteed effective equal access to employment.<sup>51</sup>

*Right to health*

41. UNICEF-Luxembourg reported that in 2022, the Ministry of Health had begun work on a national mental health plan that would include a chapter on suicide prevention. The coronavirus disease (COVID-19) pandemic had served as a reminder of the fundamental role of health promotion and highlighted the difficulties in accessing mental health care faced by children and young people in Luxembourg, already very significant before the pandemic. Though the number of recorded suicide cases had appeared to remain steady after the pandemic started, child psychiatrists had reported an increase in the number of suicide attempts. One of the most important problems was the fact that, except where covered by the National Children's Bureau, the costs of psychotherapy were still not reimbursed.<sup>52</sup>

42. UNICEF-Luxembourg recommended that Luxembourg should, as a matter of urgency, finalize negotiations on a legal framework for the reimbursement of the costs of psychotherapy treatment by the National Health Fund; set up an information clearing-house as a first port of call for young people, where they could obtain an overview of all the support measures available to them and guidance in accordance with their needs; promote campaigns to raise awareness and combat stigmatization, including in schools; and develop and implement school-based mental health and psychosocial support policies.<sup>53</sup>

43. ADF-International reported that euthanasia was legal in Luxembourg if certain conditions were met. These conditions included: that the patient be an adult who is capable and conscious at the time of the request; that the request be made voluntarily and with no external pressure; and that the patient be in a hopeless medical situation and in a state of constant and unbearable physical or mental suffering without prospects of improvement. ADF-International noted that the eligibility criteria did not require the patient's condition to be terminal. While as of 2020, no euthanasia had been performed based merely on psychological suffering or mental illness, the National Control and Evaluation Commission had received multiple requests in this regard and had explicitly stated that such cases would fall within the scope of application of the Law.<sup>54</sup>

44. ECLJ reported that though the law of Luxembourg foresaw that a person may change their opinion allowing them to restate their end-of-life arrangements, it also allowed the arrangements to take effect when the person who wrote them could not affirm whether they still reflected his or her wishes.<sup>55</sup>

45. ADF-International recommended that Luxembourg: strengthen policies and increase investments to promote the medical, psychological, social and economic well-being of elderly persons and other vulnerable members of society; and ensure that all patients are provided with high-quality palliative care.<sup>56</sup>

*Right to education*

46. BCN commended Luxembourg for offering free public education for all. BCN noted, however, that Luxembourg had one of the largest percentage of students that have repeated a grade before tertiary education among the Organisation for Economic Co-operation and Development (OECD) countries, and that disadvantaged students repeated a grade 38 per cent more than advantaged ones, which was one of the largest differences among OECD countries. Among the share of immigrant students, three in eight were socio-economically disadvantaged.<sup>57</sup>

47. BCN also observed that, while students were guaranteed equal opportunities within education, an inequality of outcomes persisted, especially in the pursued career paths: men were more likely to undertake a career in the fields of science, technology, engineering and

mathematics representing around 80 per cent of the new entrants, whereas women represented the 74% of new entrants in the field of education.<sup>58</sup>

48. BCN recommended that Luxembourg further improve the quality of education and aim at filling the inequality gaps based on gender, national background and socio-economic status;<sup>59</sup> and continue and further implement all necessary measures to guarantee the rights of asylum seeking, refugee, unaccompanied and migrant children, including the right to education.<sup>60</sup>

## 2. Rights of specific persons or groups

### *Women*

49. ECLJ commended Luxembourg for its efforts to combat female genital mutilation, in particular for the amendments to its penal code and for the implementation of a national strategy aimed at prevention and awareness and encouraged Luxembourg to continue its efforts to combat those practises.<sup>61</sup>

### *Children*

50. With regard to the protection of children from violence and support for victims, the Ombudsman noted a lack of adequate psychosocial support. A system of support “from the first hour” had been created in 2003 for victims of domestic violence, but did not yet exist for children.<sup>62</sup>

51. The Ombudsman recommended that Luxembourg should guarantee immediate psychosocial care “from the first hour”, free of charge 24 hours a day 7 days a week, to children reporting violence; adopt a child protection policy and appoint a “good treatment delegate” in any context where children are being cared for, received or educated; and set up a proper system for the prevention of physical and psychological violence, with extensive awareness-raising campaigns and in-service training for professionals working for and with children.<sup>63</sup>

52. UNICEF-Luxembourg took note of a report indicating that Luxembourg was among the top 10 countries hosting uniform resource locators (URLs) relating to child sexual abuse and recommended that Luxembourg should take all necessary measures to actively combat child sexual abuse material, both at the legislative level and by strengthening services such as, for example, BEE SECURE and the police, as well as by organizing awareness campaigns and improving the collection of data and statistics.<sup>64</sup> The Ombudsman made similar comments<sup>65</sup> and recommended that the bill to introduce tougher measures to combat sexual abuse and exploitation should be passed as soon as possible;<sup>66</sup> and that active steps should be taken to curb the hosting of child sexual abuse-related URLs in Luxembourg.<sup>67</sup>

53. The Committee of the Parties to the Council of Europe Convention on the protection of children against sexual exploitation and sexual abuse (CoE-Lanzarote Committee) required that Luxembourg put training in place for prosecutors on aspects of child sexual exploitation and sexual abuse;<sup>68</sup> set-up victim identification function within law enforcement in charge of combating Information and Communication Technologies facilitated sexual offences against children;<sup>69</sup> and ensure that the persons who have regular contacts with children are equipped to identify any situation of sexual exploitation and sexual abuse of children and are informed of the possibility for them to report to the services responsible for child protection any situation where they have “reasonable grounds” for believing that a child is a victim of sexual exploitation and sexual abuse.<sup>70</sup>

### *Persons with disabilities*

54. BCN commended Luxembourg for developing an Action Plan for the implementation of the Convention on the Rights of Persons with Disabilities 2019–2024, which emphasized that all children, including those with disabilities, had a fundamental right to education, as well as the right to non-discrimination, as established by article 24 of the Convention.<sup>71</sup> It indicated that since Luxembourg planned to implement many and complex policies it should also put in place measures to monitor the improvement and assess and tackle the difficulties resulting from the implementation of the policies, as planned.<sup>72</sup> CoE-ECSR reported that in

Luxembourg it was not established that the remedies in the event of discrimination on grounds of disability in education were adequate.<sup>73</sup>

*Lesbian, gay, bisexual, transgender and intersex persons*

55. CoE-ECRI welcomed the enactment of a new legislation on name changes and gender recognition for transgender persons which drew on several key parts of Resolution 2048 (2015) of the Parliamentary Assembly of the CoE.<sup>74</sup>

56. Rosa Lëtzebuerg ASBL (RL) reported that Luxembourg had implemented recommendations received during the last Universal Periodic Review regarding legal protections for lesbian, gay, bisexual, transgender and intersex persons (LGBTI) with the adoption of the law of 10 August 2018 on the modification of the mention of gender and first name(s) in civil status and amending the Civil Code. As per this new law, based on the self-determination principle, it was currently possible for Luxembourgish citizens and residents, refugees, and stateless individuals to change their gender and name, via an administrative procedure and without the need to provide any medical certificate.<sup>75</sup>

57. Regarding nonbinary people rights, Centre LGBTQI+CIGALE (CentreCigale) reported that nonbinary people were a population which was not much considered in Luxembourg and recommended carrying out awareness raising campaigns and specific trainings about the realities and needs of nonbinary people for medical health professionals and for people who take political decisions on the matter. CentreCigale noted that another issue for nonbinary people was their civil status and that to date, it was impossible to choose a third option on official documents in Luxembourg.<sup>76</sup>

58. RL encouraged the Ministry of Justice and other organizations to hold consultations on drafting more inclusive laws that could offer complete protection to all individuals from discrimination; and called on Parliament to take into account the diversity of gender identities, when working on the constitutional reform.<sup>77</sup> CentreCigale urged the Parliament to consider the difference between sex and gender, respectively, and whether there is a general need for a gender marker, when working on the intended constitutional reform and to clarify this matter to prevent the forthcoming reform from becoming obsolete even before it entered into force.<sup>78</sup>

59. RL and CentreCigale urged the police in Luxembourg to include LGBTIQ+ as a part of complaints and incidents within their reports to allow for national statistics, as these had never been available.<sup>79</sup> CentreCigale also urged ensuring that systematic training was provided to the police, the judiciary, and the observers of hate crimes regarding the identification, investigation of hate crimes and treatment of victims.<sup>80</sup>

60. RL and CentreCigale stated that protection of intersex people's rights was insufficient.<sup>81</sup> RL noted that intersex people were currently not supported or covered by hate crime laws or policies, were not included in asylum laws and policies, were still subjected to medical interventions (before a consent could be given) and had no access to justice when victims of such practices.<sup>82</sup> CentreCigale urged the Ministries of Health and Justice to immediately ban all non-vital medical interventions before the age of informed consent, and provide training medical professionals on intersex issues.<sup>83</sup>

*Migrants, refugees and asylum-seekers*

61. CoE-ECSR reported that social benefits were excluded from the calculation of the income of a migrant worker who had applied for family reunification and that it was not established that: violations of the right to family reunification were subject to an effective mechanism of review; guarantees concerning deportation of migrant workers were sufficient; and that there were no excessive restrictions on the right of migrants to transfer earnings and savings.<sup>84</sup>

62. While noting that in Luxembourg asylum was granted also on the basis of sexual orientation discrimination, RL exhorted Luxembourg to provide specific training/awareness campaigns to people working with refugees in the various Luxembourgish shelters, so as to create an inclusive and welcoming environment.<sup>85</sup>



63. UNICEF-Luxembourg noted that unaccompanied minors were in principle obliged to apply for international protection, but that their personal situation did not always justify such a step. The existence of an Advisory Commission on the best interests of unaccompanied minors was positive. However, the Commission only intervened before a return decision was made.<sup>86</sup>

64. UNICEF-Luxembourg reported that, under the current rules, an ad hoc administrator, who was a lawyer, was appointed by the family court judge to assist and represent a young person in the international protection procedure. In order to provide the child with the best possible support, both in the age-determination procedure and in the residence procedures, it was vital that a guardian should be appointed as speedily as possible.<sup>87</sup>

65. UNICEF-Luxembourg recommended that, in addition to the possibility of applying for international protection, a special status should be created for unaccompanied minors that would permit their situation to be evaluated and, where appropriate, resolved by the granting of long-term residence in Luxembourg; the presumption of minority of unaccompanied minors should apply, particularly pending the age-determination procedure; and a specially trained guardian should be appointed without delay, as soon as an unaccompanied minor was reported or identified in the country, and without waiting for an application for international protection.<sup>88</sup>

66. The Ombudsman recommended that Luxembourg should ensure and improve, in all procedures involving children, the evaluation and consideration of the best interests of the child; and introduce a genuine special legal status for unaccompanied minors in connection with any immigration procedure and taking account of their particular vulnerability.<sup>89</sup>

67. The Ombudsman also recommended ceasing to refer to “customary guardianships” (which do not exist in Luxembourg law), where a child was accompanied by, for example, an older brother or an older uncle. Under current rules, the Directorate of Immigration deemed that such children were not unaccompanied minors and were not entitled to family reunification. That interpretation was not necessarily consistent with the rights of the child or the child’s best interests.<sup>90</sup>

## Notes

<sup>1</sup> [A/HRC/38/11](#) and the addendum [A/HRC/38/11/Add.1](#) and [A/HRC/38/2](#).

<sup>2</sup> The stakeholders listed below have contributed information for this summary; the full texts of all original submissions are available at: [www.ohchr.org](http://www.ohchr.org) (one asterisk denotes a national human rights institution with A status).

### *Civil society*

#### *Individual submissions:*

ADF-International	ADF International, 1202 Geneva (Switzerland);
BCN	The Stichting Broken Chalk, Amsterdam (Netherlands);
CentreCigale	Centre LGBTIQ+ Cigale, Luxembourg (Luxembourg);
ECLJ	European Centre for Law and Justice, The, Strasbourg (France);
ICAN	International Campaign to Abolish Nuclear Weapons, Geneva (Switzerland);
OKAJU	Ombudsman fir Kanner a Jugendlecher (Défenseur des droits de l’enfant), Luxembourg (Luxembourg);
RL	Rosa Lëtzebuerg, Luxembourg (Luxembourg);
UNICEF-Luxembourg	Comité luxembourgeois pour l’UNICEF, Luxembourg (Luxembourg).

#### *National human rights institution:*

CCDH	Commission consultative des Droits de l’Homme – Luxembourg, Luxembourg (Luxembourg).
------	--

#### *Regional intergovernmental organizations:*

CoE	The Council of Europe, Strasbourg (France);
	Attachments:
	(CoE-ECRI) European Commission against Racism and

Intolerance, Conclusions on the Implementation of the Recommendations in Respect of Luxembourg Subject to Interim Follow-up, Adopted on 10 December 2019, Published on 19 March 2020, CRI (2020)7;

(CoE-GRETA) Group of Experts on Action against Trafficking in Human Beings, Third Evaluation Round, Access to justice and effective remedies for victims of trafficking in human beings, Evaluation Report, Luxembourg, Published on 4 October 2022, GRETA (2022)13;

(CoE-Lanzarote Committee) Committee of the Parties to the Council of Europe Convention on the protection of children against sexual exploitation and sexual abuse, Implementation report, the Protection of Children against Sexual Exploitation and Sexual Abuse Facilitated by Information and Communication Technologies (ICTs), Addressing the Challenges Raised by Child Self-Generated Sexual Images and/or Videos, T-ES(2022)02\_en final, (subject to editing), 10 March 2022;

(CoE-GRECO) Group of States Against Corruption, Fourth Evaluation Round, Corruption prevention in respect of members of parliament, judges and prosecutors, Fourth Evaluation Round, Third Interim Compliance Report, Luxembourg, by GRECO at its 90th Plenary meeting: 25 March 2022, Publication: 28 March 2022 GrecoRC4(2022);

(CoE-ECSR) European Committee of Social Rights, Luxembourg and the European Social Charter, Factsheet – Luxembourg, Department of the European Social Charter Directorate General Human Rights and Rule of Law, Update: March 2022;

(CoE-Venice Commission) European Commission for democracy through law, Venice Commission Luxembourg Opinion on the Proposed Revision of the Constitution, Adopted by the Venice Commission at its 118th Plenary Session, (Venice, 15–16 March 2019), Opinion No. 934/2018, Strasbourg, 18 March 2019, CDL-AD (2019)003; OSCE/ODIHR Office for Democratic Institutions and Human Rights/Organization for Security and Co-operation in Europe, Warsaw (Poland).

<sup>3</sup> CCDH, paras. 10–11. See also BCN, para. 36 and CoE, p. 3.

<sup>4</sup> CCDH, para. 8.

<sup>5</sup> CCDH, para. 4.

<sup>6</sup> CCDH, para. 27.

<sup>7</sup> CCDH, para. 27.

<sup>8</sup> CCDH, para. 6.

<sup>9</sup> CCDH, paras. 13 and 15.

<sup>10</sup> CCDH, para. 21.

<sup>11</sup> CCDH, para. 18.

<sup>12</sup> CCDH, para. 12.

<sup>13</sup> CCDH, para. 22.

<sup>14</sup> CCDH, para. 17.

<sup>15</sup> CCDH, para. 23.

<sup>16</sup> CCDH, para. 24.

<sup>17</sup> CCDH, para. 25.

<sup>18</sup> CCDH, para. 28.

<sup>19</sup> CCDH, para. 30.

<sup>20</sup> CCDH, para. 31.

<sup>21</sup> *The following abbreviations are used in UPR documents:*

ICERD	International Convention on the Elimination of All Forms of Racial Discrimination
ICESCR	International Covenant on Economic, Social and Cultural Rights

OP-ICESCR	Optional Protocol to ICESCR
ICCPR	International Covenant on Civil and Political Rights
ICCPR-OP 1	Optional Protocol to ICCPR
ICCPR-OP 2	Second Optional Protocol to ICCPR, aiming at the abolition of the death penalty
CEDAW	Convention on the Elimination of All Forms of Discrimination against Women
OP-CEDAW	Optional Protocol to CEDAW
CAT	Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment
OP-CAT	Optional Protocol to CAT
CRC	Convention on the Rights of the Child
OP-CRC-AC	Optional Protocol to CRC on the involvement of children in armed conflict
OP-CRC-SC	Optional Protocol to CRC on the sale of children, child prostitution and child pornography
OP-CRC-IC	Optional Protocol to CRC on a communications procedure
ICRMW	International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families
CRPD	Convention on the Rights of Persons with Disabilities
OP-CRPD	Optional Protocol to CRPD
ICPPED	International Convention for the Protection of All Persons from Enforced Disappearance

<sup>22</sup> BCN, para. 36.

<sup>23</sup> CoE-GRETA, para. 154.

<sup>24</sup> CoE, p. 2.

<sup>25</sup> ICAN, p. 1.

<sup>26</sup> OKAJU, para. 33.

<sup>27</sup> OKAJU, para. 32.

<sup>28</sup> UNICEF-Luxembourg, p. 2.

<sup>29</sup> CoE-Venice Commission, para. 130.

<sup>30</sup> OKAJU, paras. 4–5.

<sup>31</sup> OSCE/ODIHR, para. 13.

<sup>32</sup> ECLJ, paras. 25–26 and 30.

<sup>33</sup> CoE-ECRI, para. 1.

<sup>34</sup> CoE-GRECO, para. 58.

<sup>35</sup> OKAJU, paras. 4 and 6.

<sup>36</sup> For the relevant recommendations, see [A/HRC/38/11](#), paras. 106.75 (Senegal) and 106.76 (Sierra Leone).

<sup>37</sup> UNICEF-Luxembourg, paras. 4–6.

<sup>38</sup> OKAJU, para. 25.

<sup>39</sup> For the relevant recommendations, see [A/HRC/38/11](#), paras. 106.78 (United States), 106.81 (Honduras), 106.77 (Spain), 106.79 (Georgia), 106.80 (Germany), 106.134 (Iraq), 106.135 (Lebanon), 106.131 (Maldives) and 106.132 (Maldives).

<sup>40</sup> OKAJU, para. 27.

<sup>41</sup> UNICEF-Luxembourg, p. 3.

<sup>42</sup> OKAJU, para. 29. See also BCN, para. 38.

<sup>43</sup> OSCE/ODIHR, paras. 9–10.

<sup>44</sup> CoE-GRETA, p. 4 and para. 89.

<sup>45</sup> ECLJ, para. 27.

<sup>46</sup> CoE-GRETA, para. 92.

<sup>47</sup> CoE-GRETA, paras. 93 and 116.

<sup>48</sup> CoE-GRETA, para. 45.

<sup>49</sup> CoE-GRETA, para. 171.

<sup>50</sup> CoE-ECSR, p. 3.

<sup>51</sup> CoE-ECSR, p. 3.

<sup>52</sup> UNICEF-Luxembourg, paras. 22–24 and 27.

<sup>53</sup> UNICEF-Luxembourg, p. 7.

<sup>54</sup> ADF-International, paras. 3–5 and 10. See also ECLJ, para. 17.

<sup>55</sup> ECLJ, para. 19.

<sup>56</sup> ADF-International, para. 26(c)(d).

<sup>57</sup> BCN, paras. 5, 7, and 23.

<sup>58</sup> BCN, para. 12.

- <sup>59</sup> BCN, para. 33.  
<sup>60</sup> BCN, para. 35.  
<sup>61</sup> ECLJ, para. 29.  
<sup>62</sup> OKAJU, para. 9.  
<sup>63</sup> OKAJU, paras. 10–12. See also CoE-Lanzarote Committee, p. 125, Recommendation VI-1.  
<sup>64</sup> UNICEF-Luxembourg, para. 30, p. 8.  
<sup>65</sup> OKAJU, para. 14.  
<sup>66</sup> OKAJU, para. 15.  
<sup>67</sup> OKAJU, para. 17.  
<sup>68</sup> CoE-Lanzarote Committee, p. 67, Recommendation III-15.  
<sup>69</sup> CoE-Lanzarote Committee, p. 73, Recommendation III-23.  
<sup>70</sup> CoE-Lanzarote Committee, pp. 190–191, Recommendations X-5 and X-6.  
<sup>71</sup> BCN, para. 16.  
<sup>72</sup> BCN, para. 19.  
<sup>73</sup> CoE-ECSR, p. 3.  
<sup>74</sup> CoE-ECRI, para. 2.  
<sup>75</sup> RL, p. 1.  
<sup>76</sup> CentreCigale, pp. 3–4.  
<sup>77</sup> RL, pp. 2–3.  
<sup>78</sup> CentreCigale, p. 4.  
<sup>79</sup> RL, p. 2 and CentreCigale, p. 8.  
<sup>80</sup> CentreCigale, p. 8.  
<sup>81</sup> RL, p. 1 and CentreCigale, p. 2.  
<sup>82</sup> RL, p. 4.  
<sup>83</sup> CentreCigale, p. 3.  
<sup>84</sup> CoE-ECSR, p. 4.  
<sup>85</sup> RL, p. 3.  
<sup>86</sup> UNICEF-Luxembourg, paras. 11–12.  
<sup>87</sup> UNICEF-Luxembourg, paras. 19–20.  
<sup>88</sup> UNICEF-Luxembourg, pp. 5–6. See also OKAJU, para. 22.  
<sup>89</sup> OKAJU, para. 20.  
<sup>90</sup> OKAJU, para. 22.
-