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Report of the Working Group on the Universal Periodic Review*

Luxembourg

Addendum

**Views on conclusions and/or recommendations, voluntary
commitments and replies presented by the State under
review**

* The present document was not edited before being sent to the United Nations translation services.

1. Luxembourg wishes to point out that it received 121 recommendations at its review in January 2013. It immediately accepted 41 recommendations¹ and took note of 4 recommendations.²
2. This document deals with the consideration of the remaining 76 recommendations, 71 of which have been accepted. Luxembourg is of the view that recommendations 118.4, 118.22, 118.53, 118.65, 118.70 and 118.71 have already been implemented.
3. Luxembourg takes note of recommendations 118.3, 118.6, 118.7, 118.42 and 118.75.

I. International instruments and their implementation

118.1

4. Luxembourg plans to ratify this convention shortly.

118.2

5. Luxembourg plans to consider removing this reservation.

118.7

6. See national report.³ In addition, as part of general training the majority of civil servants attend a course provided by the National Institute of Public Administration on protection for citizens in the face of administrative decisions, which includes a human rights component.

II. Protection of the rights of migrants, refugees and asylum seekers

118.5, 118.68, 118.70 and 118.73

7. The Government has made considerable efforts to enlarge the staff of its refugee department, which now has sufficient means to process applications within a reasonable time frame.
8. With regard to statelessness, a formal procedure is now in place⁴ for de facto stateless persons, and a procedure for de jure stateless persons will soon be finalized.

118.6, 118.41, 118.42, 118.56 and 118.66

9. Luxembourg has established a fast and effective system whereby applicants for international protection can receive basic care in the country. Under the reception and support system, once the application for asylum has been lodged, the applicant is enrolled in the general health insurance system and undergoes a series of individual examinations in the interest of public health.
10. The main initial reception centre for applicants for international protection has a psychologist on staff, paid for by the Government. In addition to this psychological care provided, any applicant can use the services offered by the various psychiatry professionals operating outside the hospital setting.
11. Applicants for international protection are housed in specialized shelters for the duration of the procedure. During this period, they have access to the forms of aid described in the national report.

12. All applicants for international protection, including unaccompanied minors and persons with specific needs, live under an “open” system.

13. The Act of 1 July 2011 introduced the option of restricted residence as an alternative to detention when it is reasonable to assume that the person will be returned but the procedure has been postponed for technical reasons. There is a strong focus on voluntary return before a person is placed in detention. The number of voluntary returns is four times greater than the number of persons placed in detention.

14. No decision to return an unaccompanied minor may be issued, except on the basis of serious public security concerns, or unless the deportation is in the minor’s best interests.⁵ If a minor is deported on the basis of serious public security concerns, confinement in the detention centre cannot be ruled out, whereas if the deportation is in the minor’s best interests, he or she must be placed in suitable accommodation outside the detention centre.

118.39

15. Only 17 detainees, or 3.5 per cent of the total number, have been held for 4 months or longer. The average length of detention among the 487 detainees held at the detention centre since it became operational in September 2011 is 28 days, and legislation stipulates that families with minor children cannot be held for more than 72 hours.⁶

118.44

16. Applications for family reunification, including those lodged by recognized refugees, are considered in a positive spirit. However, the applications are often not lodged until after several months or even years have passed. In such cases, ordinary law applies, including with regard to the applicant’s means of support.

118.54

17. Luxembourg is currently studying the issue of resettlement.

118.75

18. All asylum applications are examined individually. If the legal conditions have been met, the person is granted international protection.

III. Equality between women and men

118.9, 118.10, 118.11, 118.12 and 118.13

19. The recommendations on equality between men and women have already been incorporated into the National Action Plan on Equality between Women and Men 2009–2014, which includes a set of positive measures aimed at private enterprises, government ministries and public administration offices and facilitates the taking of suitable measures to combat any existing discrimination or to narrow the gender wage gap.⁷

20. Luxembourg will also continue its efforts to combat all forms of discrimination through the 2010–2014 National Plan of Action to Achieve Integration and Combat Discrimination, awareness-raising activities and partnerships with civil society.

118.26 and 118.27

21. Parliament is in the process of amending the legislation on domestic violence to strengthen the rights of adult and child victims and make perpetrators more accountable for their actions,⁸ enabling better protection of women and men from all forms of violence.

22. The Committee on Cooperation between professionals in the field of combating violence is responsible for monitoring implementation of the relevant legislation and for conducting activities to raise awareness of and prevent domestic violence.

IV. Access to employment and social services

118.14, 118.49, 118.50, 118.51, 118.52 and 118.53

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

24. The guaranteed minimum income system provides all rights holders with a minimum income and mandatory personalized support to help them either enter the labour market or integrate in society.

25. Current policies focus on reducing inequalities with respect to prospects in the job market.

26. An information and vocational guidance service was established in 2011 to promote access to the labour market for third country nationals, applicants for international protection and recognized refugees.

V. Integration and the fight against all forms of discrimination

118.4

27. Luxembourg considers that its legislation covers persons who have undergone gender reassignment.⁹

118.15, 118.16, 118.17, 118.20, 118.21, 118.22, 118.23, 118.24, 118.25, 118.52, 118.69, 118.72 and 118.74

28. Luxembourg has a legislative framework of effective, proportionate and dissuasive measures to combat racist, xenophobic and Islamophobic acts.¹⁰ Luxembourg legislation prohibits any direct or indirect discrimination based on a real or assumed ethnic or racial affiliation or non-affiliation, sexual orientation, religion or belief, disability or age. In this regard, the Centre for Equal Treatment was established as an independent body with the authority to promote, analyse and monitor equality of treatment with regard to the aforementioned grounds of discrimination, including sex. The Centre also provides information and awareness-raising on discrimination, particularly for awareness-raising campaigns.

29. Under the National Plan of Action to Achieve Integration and Combat Discrimination, the Government supports specific projects and activities to benefit groups at risk of discrimination or activities to promote diversity in general. It also encourages the communes to carry out similar activities.

30. The reception and integration contract has been a great success.

31. Many tools are in place to implement a consistent and sustainable integration policy.

118.46

32. This bill should be adopted in 2013.¹¹

118.59 and 118.60

33. Implementation of the Five-Year Action Plan for Persons with Disabilities¹² began in 2012. It focuses on a different theme every year; the theme for 2013 is “empowerment”. Within this framework, the Government promotes the wide availability of information in accessible formats so that persons with disabilities can stay informed independently without needing to constantly seek help from others.

34. A “Life Academy” has been established to strengthen the autonomy, self-determination and self-representation of persons with disabilities. The Academy’s underlying principle is that persons with disabilities are experts in the areas that concern them and that they should be involved in the discussions affecting them and be given the opportunity to make their own choices in life.

118.61

35. With regard to accessibility, an increasing number of the projects carried out go beyond the requirements set out in current regulations.¹³ An agency that is contracted and subsidized by the Government¹⁴ serves as the chief adviser on accessibility in Luxembourg. Thanks to its suggestions, a number of large-scale projects have been made more accessible. In the medium term, current legislation on the accessibility of public spaces will be reviewed with a view to broadening its scope of application to cover private spaces open to the public.

36. The dependent persons’ insurance provides persons with the technical aids they may need, including alterations to housing.

37. Many measures are in place to maintain and facilitate access to employment for persons with disabilities (such as disabled employee status, sheltered workshops and vocational training) and for employees who have reduced work capacity or are unable to continue performing their last job (such as internal and external reclassification). The Agency for the Development of Employment can partially or fully cover the costs of counselling, training, rehabilitation and vocational retraining and may also grant subsidies to employers.¹⁵

VI. Combating trafficking in persons**118.18, 118.28, 118.31, 118.32, 118.33, 118.34, 118.35, 118.43 and 118.63**

38. With regard to trafficking in persons, Luxembourg has partnerships with associations that provide both residential and non-residential services for the recovery, support, empowerment and integration of victims of trafficking in persons adapted to their specific needs (for women, children and men, and depending on their origin, religion, nationality, disability, origin, status and other factors) regardless of the purposes of the trafficking.

39. The Ministry of Equal Opportunity and the Ministry of Family Affairs and Social Integration, together with the criminal investigation service and associations, coordinate the assistance, protection and security provided for victims.

40. The victims have a right to legal aid and translation and interpreting services and under certain conditions have a right to assistance with entry into the labour market.

41. The Informal Committee on Human Trafficking,¹⁶ which brings together persons working on the ground, particularly to monitor and coordinate activities to prevent and combat trafficking in persons, is continuing its work.

42. A bill¹⁷ strengthening the rights of victims of trafficking in persons has just been tabled in parliament. The bill also calls for the Ombudsman to be appointed as the National Rapporteur on Trafficking.

43. Various regulations are also being drafted.¹⁸

118.27, 118.29, 118.30 and 118.36

44. See the efforts undertaken since the first universal periodic review to strengthen the legal framework protecting children from sexual exploitation and sexual abuse.¹⁹ The bill referred to in paragraph 46 of the national report, which has since been adopted, imposes stronger penalties for such criminal offences.²⁰

45. A system of accommodation and social welfare provision has been established for minors who apply for international protection in order to prevent any risk of their sexual exploitation and abuse.

VII. Freedom of religion or belief

118.19, 118.47 and 118.48

46. The Government will continue to work with the Muslim community on the new draft agreement. It reaffirms the right of the Shura to be officially recognized as a body representing Muslims in Luxembourg.

47. Work continues in connection with the experts' report on the development of relations between the State and religious or non-faith-based philosophical communities published in October 2012. Parliament will soon provide guidance on the new arrangement and on the content of a constitutional reform, which will also involve the documents on relations between the State and religious communities.

VIII. Education

118.8

48. The 2009–2014 government programme calls for the systematic implementation of education on sexuality and emotional health at all levels of education. A 2013–2016 “emotional and sexual health” action plan will be finalized in 2013.²¹

49. The basic education curriculum is checked, adapted and supplemented in collaboration with the National School Commission and the Basic Education Department. The Division of Preventive Medicine and the Division of School Health Care are involved in initiatives to promote sexual health.

118.57

50. Students are encouraged to pursue the type of education that best corresponds with their profile, based on their academic record as established by the Educational Reception Unit.

51. Regular meetings are planned with students' parents so as to take better consideration of their views when deciding which track students should be encouraged to follow. All possibilities are discussed during these meetings.

118.58 and 118.67

52. In addition to some Portuguese and Italian language courses added to the Luxembourg school timetable, which are taught by teachers hired and paid by the embassies of Portugal and Italy respectively, Portuguese native speakers may act as assistants to preschool teachers so as to gradually expand their multilingual and multicultural skills.

53. The “Opening up to Languages” programme has been introduced in the areas of education provided for under the Basic Education Act. It is a comparative approach that makes use of the resources students have and allows them to build on their knowledge of one language to help them better understand another one and gradually expand their multilingual and multicultural skills.

54. Several measures have been taken to reduce failure at school among immigrant students in secondary schools, including reception and integration classes with intensive French lessons for newly arrived students, classes taught using French or English, special German or French classes and International Baccalaureate classes taught in French or English.

55. The ALLET and French + classes are offered for secondary students experiencing difficulties in German or French respectively, while in technical secondary education these needs are met through specific language classes.

56. Intercultural mediators take part in information meetings and interviews to foster dialogue between parents who speak foreign languages, school authorities, teachers and students.

118.62

57. In January 2013 the Government conducted an initial assessment of the school reform. With regard to differentiated learning, it intends to improve the functioning of multidisciplinary teams, strengthen their presence and availability in schools and collaborate with teachers to provide better support for students.

IX. Good administration of justice**118.37 and 118.38**

58. A new prison being built will, from 2018, house detainees who have not yet been convicted. Health and hygiene in prisons is an issue of constant concern for the prison authorities.²²

118.40

59. The Dreibern security unit will open in 2013.

118.45

60. As part of the reform of the prison administration,²³ a proposal has been made to prohibit the admission of minors to prison, unless a juvenile judge has ordered that the minor should be tried according to ordinary criminal law.²⁴

X. Other matters

118.55

61. Luxembourg has strengthened its efforts to:

- Improve information on the health of pregnant women and newborns by developing a monitoring system that operates in all maternity wards in the country;
- Facilitate access to contraception by covering 80 per cent of the costs of contraceptives for all women under 25 years of age;
- Promote emotional and sexual health by coordinating an interdepartmental initiative to develop a national programme on emotional and sexual health;
- Strengthen support services throughout the country for women requesting assistance in the areas of reproductive health or early childhood (such as school health services, La Ligue Médico-Sociale, Aidsberodung and Planning Familial).

62. In 2009, Luxembourg adopted a law on palliative care, advance directives and end-of-life care.²⁵

118.64

63. The Government supports the activities of NGOs working in many areas to assist families.²⁶

118.76

64. Since the submission of its national report, Luxembourg has adopted four new legislative measures.²⁷

Notes

¹ A/HRC/WG.6/15/L.8, paragraphes 116 et 117.

² A/HRC/WG.6/15/L.8, paragraphe 119.

³ A/HRC/WG.6/15/LUX/1, paragraphes 60, 61, 62, 69.

⁴ Règlement grand-ducal modifié du 26 janvier 2005 fixant les modalités d'un titre de voyage pour étrangers.

⁵ Articles 103 et 120 de la loi modifiée du 29 août 2008 concernant la libre circulation et l'immigration.

⁶ Loi du 28 mai 2009 concernant le Centre de rétention.

⁷ Au sujet des efforts pour diminuer l'écart de salaire entre hommes et femmes, voir A/HRC/WG.6/15/LUX/1, paragraphe 32, 6^e point.

⁸ Il est question de la transposition de la Directive 2011/99/UE du Parlement européen et du Conseil du 13 décembre 2011 relative à la décision de protection européenne (EPO). Il s'agira d'un instrument de droit pénal qui sera complété par un instrument de droit civil actuellement en cours de négociation.

⁹ Code pénal: «Art. 454. (L. 28 novembre 2006) Constitue une discrimination toute distinction opérée entre les personnes physiques à raison de leur origine, de leur couleur de peau, de leur sexe, de leur orientation sexuelle, de leur situation de famille, de leur âge, de leur état de santé, de leur handicap, de leurs mœurs, de leurs opinions politiques ou philosophiques, de leurs activités syndicales, de leur appartenance ou de leur non appartenance, vraie ou supposée, à une ethnie, une nation, une race ou une religion déterminée».

¹⁰ Voir code pénal, articles 454 à 457.

¹¹ Projet de loi 6172A accessible sur le site de la Chambre des députés (www.chd.lu).

¹² <http://www.mfi.public.lu/publications/Handicap/PlanActionFR.pdf>.

¹³ Loi du 29 mars 2001 et règlement grand-ducal modifiée du 23 novembre 2001.

¹⁴ Il s'agit de l'ADAPTH qui, dans le cadre du plan d'action de mise en œuvre de la Convention relative

aux droits des personnes handicapées, a récemment été nommé «Centre de compétence national pour l'accessibilité des bâtiments».

¹⁵ Loi modifiée du 12 septembre 2003 relative aux personnes handicapées.

¹⁶ Voir A/HRC/WG.6/15/LUX/1, paragraphes 35 et 37.

¹⁷ Projet de loi 6562 accessible sur le site de la Chambre des députés (www.chd.lu).

¹⁸ Il s'agit de deux avant-projets de règlements grand-ducaux:

1) avant-projet de règlement grand-ducal relatif à l'organisation, la composition et le fonctionnement du comité de suivi de la lutte contre la Traite des êtres humains;

2) avant-projet de règlement grand-ducal déterminant les modalités de l'assistance de la protection et de la sécurité des victimes de la traite des êtres humains et fixant les conditions d'agrément des associations partenaires.

¹⁹ Voir A/HRC/WG.6/15/LUX/1, paragraphe 45.

²⁰ Loi du 21 février 2013 relative à la lutte contre les abus sexuels et l'exploitation des enfants.

²¹ A remarquer encore que le Plan d'action national de l'Egalité des femmes et des hommes 2009–2014 prévoit aussi l'éducation sexuelle en milieu scolaire.

²² L'hygiène et la salubrité des prisons font aussi l'objet de vérifications de la part du Contrôleur externe des lieux privatifs de liberté. Les recommandations émises par ce dernier ont été accueillies favorablement par l'autorité pénitentiaire et les moyens adéquats pour leur mise en œuvre ont été mis à disposition. Voir le rapport du 17 novembre 2010 relatif à l'entrée du détenu en milieu carcéral et à la santé en milieu carcéral (disponible sur le site Internet du Contrôleur externe des lieux privatifs de liberté, http://www.celpl.lu/doc/doc_accueil_94.pdf).

²³ Projet de loi 6382, accessible sur le site de la Chambre des députés (www.chd.lu).

²⁴ Article 32 de la loi modifiée du 10 août 1992 relative à la protection de la jeunesse.

²⁵ Loi du 16 mars 2009 relative aux soins palliatifs, à la directive anticipée et à l'accompagnement en fin de vie.

²⁶ Règlement grand-ducal du 17 août 2011 modifiant le règlement grand-ducal du 10 novembre 2006 portant exécution des articles 1^{er} et 2 de la loi du 8 septembre 1998 réglant les relations entre l'Etat et les organismes œuvrant dans les domaines social, familial et thérapeutique pour ce qui concerne l'agrément à accorder aux personnes physiques ou aux personnes morales entreprenant ou exerçant une activité de consultation, de formation, de conseil, de médiation, d'accueil et d'animation pour familles.

²⁷ 1) Loi du 26 décembre 2012 portant approbation de la Convention du Conseil de l'Europe sur la prévention du terrorisme, signée à Varsovie, le 16 mai 2005, et modifiant

- le Code pénal;
- le Code d'instruction criminelle;
- la loi modifiée du 31 janvier 1948 relative à la réglementation de la navigation aérienne;
- 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; et
- la loi modifiée du 14 avril 1992 instituant un code disciplinaire et pénal pour la marine;

2) Règlement CSSF N° 12-02 du 14 décembre 2012 relatif à la lutte contre le blanchiment et contre le financement du terrorisme;

3) Règlement grand-ducal du 21 décembre 2012 portant fixation du modèle de formulaire de déclaration de transport physique de l'argent liquide entrant au, transitant par le ou sortant du Grand-Duché de Luxembourg;

4) Loi du 2 novembre 2012 portant approbation de l'Accord conférant le statut d'organisation internationale à l'Académie internationale de lutte contre la corruption (IACA), signé à Vienne, le 2 septembre 2010.