

# LUXEMBOURG 2019 HUMAN RIGHTS REPORT

## EXECUTIVE SUMMARY

The Grand Duchy of Luxembourg has a constitutional monarchy and a democratic parliamentary form of government with a popularly elected unicameral Chamber of Deputies (parliament). The prime minister is the leader of the dominant party or party coalition in parliament. In October 2018 the country held parliamentary elections that observers considered free and fair.

The Grand Ducal Police maintain internal security and report to the Ministry of Internal Security. The Luxembourg Army is responsible for external security and reports to the Directorate of Defense of the Ministry of Foreign Affairs. Civilian authorities maintained effective control over the security forces.

There were no reports of significant human rights abuses.

The government remained prepared and took steps to identify, investigate, and prosecute officials who committed human rights abuses.

### **Section 1. Respect for the Integrity of the Person, Including Freedom from:**

#### **a. Arbitrary Deprivation of Life and Other Unlawful or Politically Motivated Killings**

There were no reports that the government or its agents committed arbitrary or unlawful killings.

#### **b. Disappearance**

There were no reports of disappearances by or on behalf of government authorities.

#### **c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment**

The law prohibits such practices, and there were no reports that government officials employed them.

### **Prison and Detention Center Conditions**

There were no significant reports regarding prison or detention center conditions that raised human rights concerns.

Physical Conditions: There were no major concerns in prisons and detention centers regarding physical conditions or inmate abuse.

Administration: Authorities conducted investigations of credible allegations of mistreatment.

Independent Monitoring: The government permitted monitoring by independent human rights observers, including by the Council of Europe's Committee for the Prevention of Torture in 2015 and through the country's ombudsman who monitors and supervises the country's detention centers.

#### **d. Arbitrary Arrest or Detention**

The constitution and law prohibit arbitrary arrest and detention and provide for the right of any person to challenge the lawfulness of his or her detention in court. The government generally observed these requirements.

#### **Arrest Procedures and Treatment of Detainees**

Warrants issued by a duly authorized official are required for arrests in most cases. Police must inform detainees of charges against them within 24 hours of their arrest and bring them before a judge for a determination of the detention's legality. There is a functioning bail system, which judges regularly employed. According to law, detainees must be provided access to an attorney prior to their initial interrogation. In cases of indigent detainees, the government pays for the attorney.

#### **e. Denial of Fair Public Trial**

The constitution and law provide for an independent judiciary, and the government generally respected judicial independence and impartiality.

#### **Trial Procedures**

The constitution provides for the right to a fair public trial, and an independent judiciary generally enforced this right.

Defendants have the right to a presumption of innocence. A defendant has the right to be informed promptly and in detail of the charges (with free interpretation as necessary). Defendants have the right to a fair and public trial without undue delay. Trials are public, except for those involving sexual or child abuse cases. Defendants have the right to be present and to consult in a timely manner with an attorney of their choice or have one provided at public expense. Defendants and their attorneys have adequate time and facilities to prepare a defense. Persons who do not speak or understand the language of the proceedings are entitled to the free assistance of an interpreter as soon as they are questioned as a suspect, whether in the course of an investigation or preliminary investigation, or charged in criminal proceedings. Defendants may confront witnesses against them and present witnesses and evidence on their own behalf. They are not compelled to testify or confess guilt. Defendants have the right of appeal.

The law extends the above rights to all defendants.

### **Political Prisoners and Detainees**

There were no reports of political prisoners or detainees.

### **Civil Judicial Procedures and Remedies**

Magistrate courts serve as an independent and impartial judiciary in civil and commercial matters and were available to individuals who wished to bring lawsuits seeking damages for, or cessation of, a human rights violation. Citizens may appeal cases involving alleged violations of the European Convention on Human Rights by the state to the European Court of Human Rights after exhausting all routes for appeal in the country's court system.

### **Property Restitution**

According to the Jewish community, all claims by citizens for Holocaust-era property restitution have been settled. Only citizens were compensated. There were open questions about compensation for destroyed property owned by Holocaust survivors who either were citizens of a foreign country or had no citizenship at all. There are also open questions about bank accounts and insurance contracts of Holocaust survivors involving banks and insurance companies based in the country.

The government has laws and mechanisms in place, but the Jewish Consistory, the body representing the Jewish congregation in the country, expressed concern that the government did not make significant progress on resolution of Holocaust-era claims during the year, including for foreign citizens. The government was aware of the situation and in February agreed to the creation of a Working Group on Outstanding Holocaust Asset Issues. The activities of the working group continued at year's end.

#### **f. Arbitrary or Unlawful Interference with Privacy, Family, Home, or Correspondence**

The constitution and law prohibit such actions, and there were no reports that the government failed to respect these prohibitions.

### **Section 2. Respect for Civil Liberties, Including:**

#### **a. Freedom of Expression, Including for the Press**

The constitution and law provide for freedom of expression, including for the press, and the government generally respected these rights. An independent press, an effective judiciary, and a functioning democratic political system combined to promote freedom of expression, including for the press.

Freedom of Expression: The law prohibits hate speech in any medium, including online, and provides for prison sentences of between eight days and two years and fines between 251 and 25,000 euros (\$280 and \$27,500) for violations. The public prosecutor's office and the courts responded firmly to hate speech. Victims of hate speech on the internet as well as third-party observers can access a website to report hateful remarks and seek help and advice.

Press and Media, Including Online Media: Independent media were active and expressed a wide variety of views without restriction.

Libel/Slander Laws: The law prohibits "libel, slander and defamation" and provides for prison sentences of between eight days and two years and fines between 251 and 25,000 euros (\$280 and \$27,500) for violations. The government or individual public figures did not use these laws to restrict public discussion or retaliate against journalists or political opponents.

#### **Internet Freedom**

The government did not restrict or disrupt access to the internet or censor online content, and there were no credible reports that the government monitored private online communications without appropriate legal authority.

### **Academic Freedom and Cultural Events**

There were no government restrictions on academic freedom or cultural events.

### **b. Freedoms of Peaceful Assembly and Association**

The constitution and law provide for the freedoms of peaceful assembly and association, and the government generally respected these rights.

### **c. Freedom of Religion**

See the Department of State's *International Religious Freedom Report* at <https://www.state.gov/religiousfreedomreport/>.

### **d. Freedom of Movement**

The constitution and law provide for freedom of internal movement, foreign travel, emigration, and repatriation, and the government generally respected these rights.

### **e. Internally Displaced Persons**

Not applicable.

### **f. Protection of Refugees**

Access to Asylum: The law provides for the granting of asylum or refugee status, and the government has established a system for providing protection to refugees. Nongovernmental organizations (NGOs) stated that applicants for asylum continued to experience prolonged waiting periods for adjudication of their claims in some individual cases. Representatives of the Immigration Directorate at the Ministry of Foreign and European Affairs noted that the average waiting time was 6.5 months.

Safe Country of Origin/Transit: The country generally denied asylum to asylum seekers who arrived from a safe country of origin or transit, pursuant to the EU's

Dublin III Regulation. The government considered 13 countries to be “safe countries of origin” for purposes of asylum. A “safe country” is one that provides for compliance with the principles of fundamental human rights and does not expose nationals to torture and persecution. The Ministry of Foreign Affairs maintains and updates as needed a list of safe countries. The Directorate of Immigration can examine asylum requests through an accelerated procedure for nationals of safe countries of origin as determined by the law. The non-EU countries considered “safe” at the end of 2017 were Albania, Benin (only for male applicants), Bosnia and Herzegovina, Cabo Verde, Croatia, Georgia, Ghana (only for male applicants), Kosovo, Macedonia, Montenegro, Senegal, Serbia, and Ukraine.

Employment: Once granted asylum, there are no additional legal restrictions on a refugee’s ability to work other than those applicable to non-EU country nationals. According to the country’s National Refugee Council (a collection of NGOs assisting refugees), the absence of training opportunities during the application process affected a refugee’s chances of direct employment once granted asylum. In addition the council underscored that language barriers and an inability to understand the domestic job market reduce employment opportunities. According to the representatives of the Immigration Directorate, application procedures are the same for all non-EU nationals.

Asylum seekers can apply for a temporary work permit six months after applying for asylum. Job positions are published at the national employment agency but are open to non-EU nationals only if no qualified Luxembourg or other EU citizen registered with the national employment agency applies within three weeks. The Ministry of Foreign Affairs must approve requests for temporary work permits. According to the National Refugee Council, application procedures are lengthy and not adapted to the needs of the labor market.

Durable Solutions: Through the EU, the country accepted refugees for resettlement, offered naturalization to refugees residing in the country, and assisted in voluntary return to their homelands.

Temporary Protection: The law provides for temporary protection, triggered for example by a decision of the Council of the EU when necessary to provide immediate and temporary protection to a massive influx of displaced persons from outside the EU who cannot return to their countries of origin. In addition the government provided subsidiary protection to individuals who may not qualify as

refugees, but who could not return to their country of origin due to a risk of serious harm, and provided it to approximately 74 persons during 2018.

#### **g. Stateless Persons**

Not applicable.

### **Section 3. Freedom to Participate in the Political Process**

The constitution and law provide citizens the ability to choose their government in free and fair periodic elections held by secret ballot and based on universal and equal suffrage.

#### **Elections and Political Participation**

Recent Elections: In October 2018 the country held parliamentary elections that observers considered free and fair.

Participation of Women and Minorities: No laws limit the participation of women and members of minorities in the political process, and they did participate. The law requires that 40 percent of the party candidate lists submitted for national elections be from “the under-represented gender.” If a party fails to meet the quota, the law provides a graduated scheme of reducing its yearly financial endowment from the government, based on the extent of failure to meet the criteria. The country’s five major parties all met the 40 percent criterion in their candidate lists for the parliamentary elections.

### **Section 4. Corruption and Lack of Transparency in Government**

The law provides criminal penalties for corruption by officials, and the government generally implemented these laws effectively.

Financial Disclosure: By executive order, cabinet members must disclose any company assets, in the form of shares or otherwise, that they own. The order requires that prospective ministers submit the information before they assume office. The declarations are available to the public on the government’s internet website. There are no criminal or administrative sanctions for noncompliance, and no particular agency has a mandate to monitor disclosures.

## **Section 5. Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Abuses of Human Rights**

A number of domestic and international human rights groups operated without government restriction, investigating and publishing their findings on human rights cases. Government officials often were cooperative and responsive to their views.

Government Human Rights Bodies: The government bodies that deal with human rights are the Consultative Commission for Human Rights and the Ombudsman Committee for the Rights of Children. In addition the Center for Equal Treatment monitors issues related to discrimination based on race or ethnic origin, sex, sexual orientation, religion or beliefs, disability, and age. The three organizations are government funded and composed of government nominees but act independently of the government and of one another. The government provided resources that enabled the continuous and unrestricted operation of the committees. As consultative bodies in the legislative process, the committees commented on the government's bills and amendments to laws concerning human rights. They were also active in outreach efforts, informing the public about human rights and the rights of children and publishing annual reports on their activities.

The ombudsman mediates solely between citizens and the public sector and cannot receive complaints against the private sector, although many assistance institutions are private or run by not-for-profit organizations that often received government support. The Center for Equal Treatment can receive complaints against the private sector but cannot take cases to court on behalf of victims.

The Interministerial Committee on Human Rights aims to improve interministerial cooperation and coordination on human rights issues and to strengthen the country's internal and external human rights policies. It is in charge of monitoring the implementation of the country's human rights obligations in consultation with national human rights institutions and civil society. Every ministry has a seat on the committee, which is coordinated by the Ministry of Foreign and European Affairs and chaired by the ambassador-at-large for human rights.

## **Section 6. Discrimination, Societal Abuses, and Trafficking in Persons**

### **Women**

Rape and Domestic Violence: The law prohibits rape, including spousal rape, and the government enforced the law effectively. Penalties for violations range from

five to 10 years' imprisonment. The law prohibits domestic violence, and the government effectively enforced the law. The law is gender neutral and provides for the removal of abusers from their residences for a 14-day period that can be extended once for an additional three months upon request of the victim. Penalties may include fines and imprisonment. Police are required to investigate if an NGO reports having been approached by an individual for assistance in cases involving domestic abuse.

On August 10, a 40-year-old woman died after her boyfriend reportedly beat her severely. According to the national daily *Tageblatt*, police officers had intervened the day before, removing the boyfriend from the couple's residence. As of October the boyfriend remained in custody awaiting trial.

The government funded organizations that provided shelter, counseling, psychosocial assistance, and hotlines. Three separate hotlines were available to assist men, women, and children who were victims of domestic abuse. The government provided financial assistance to domestic violence victims.

In 2018 authorities investigated 122 accusations of indecent assault and 76 cases of rape, representing modest decreases from 2017. In 2018 police intervened 739 times in domestic violence situations, and prosecutors authorized 231 evictions of the abuser from the domestic home as a result of these incidents; these were increases from the prior year. The Minister of Equality between Women and Men stated that authorities were unable to determine if this increase was due to growth in the number of incidents or in reports.

In November-December 2018, the Ministry of Equality between Women and Men helped fund events to raise awareness of violence against women in conjunction with the "Orange Week" campaign against such violence. Campaign events included public exhibitions, film screenings, and panel discussions. During the week the ministry also launched an awareness campaign in conjunction with the country's ratification of the Istanbul Convention on preventing and combatting violence against women and domestic violence.

**Sexual Harassment:** The law prohibits sexual harassment and requires employers to protect employees from such harassment. The law prohibits gender-based job discrimination and harassment of subordinates by superiors. Disciplinary measures against offenders, including dismissal, are applicable. The law considers an employer's failure to take measures to protect employees from sexual

harassment a breach of contract, and an affected employee is entitled to paid leave until the situation is rectified.

Between June 17 and July 7, the Ministry of Equality between Women and Men conducted a public survey to help draft the new national action plan on equality. The survey revealed that 74 percent of women and 61 percent of men considered combatting sexual harassment a priority. At the same time, 77 percent of women and men considered awareness-raising programs in schools as the best method to combat sexual harassment.

Coercion in Population Control: There were no reports of coerced abortion or involuntary sterilization.

Discrimination: The law provides for the same legal status and rights for women as for men. The government enforced the law effectively.

## **Children**

Birth Registration: Citizenship is governed by the principle of descent, according to which a father or mother who is a citizen automatically conveys citizenship to offspring at birth. The law allows for citizenship via naturalization and allows dual citizenship. Citizenship for minor children is automatically conveyed when a parent naturalizes. All residents, regardless of citizenship, are required to register in their commune of residence.

Early and Forced Marriage: The minimum legal age for marriage is 18 but can be waived by a guardianship judge. In its 2017 report, the country's Ombudsman Committee for the Rights of Children noted that forced marriage had become a problem as a result of immigration, but no official data on it was available.

Sexual Exploitation of Children: The law prohibits the commercial sexual exploitation of children, the sale of children, the offering or procuring of a child for child prostitution, and practices related to child pornography. Authorities enforced the law, and cases were rare. Penalties for the sexual exploitation of children range from five years' to life imprisonment.

Amendments to the penal code provide that a client having consciously committed a commercial sexual act with a minor can be sentenced to one to five years of imprisonment and a fine of 251 to 50,000 euros (\$280 to \$55,000).

The minimum legal age for consensual sex is 16.

Displaced Children: In 2018 the Immigration Directorate noted there were 36 asylum requests for unaccompanied children, down from the 50 requests it received in 2017. There were three specialized housing shelters specifically for unaccompanied children and two shelters that also accepted unaccompanied children; the government placed unaccompanied children in these shelters whenever feasible.

International Child Abductions: The country is a party to the 1980 Hague Convention on the Civil Aspects of International Child Abduction. See the Department of State's *Annual Report on International Parental Child Abduction* at <https://travel.state.gov/content/travel/en/International-Parental-Child-Abduction/for-providers/legal-reports-and-data/reported-cases.html>.

### **Anti-Semitism**

The Jewish community numbered approximately 1,500 persons. There were no reports of violent anti-Semitic acts although there were isolated cases of anti-Semitic content on the internet and a nonviolent, anti-Semitic act against the rabbi of Esch-sur-Alzette.

In September unknown individuals placed a sticker reading "Jewish Faggots" on the postal box of the openly gay rabbi of Esch-sur-Alzette. A police investigation continued. In an act of solidarity, the mayor of Esch-sur-Alzette condemned the act of anti-Semitism and homophobia during a World War II commemoration. Halfway through his remarks, the mayor put on a gay pride sash and a kippah in an act of solidarity and emphasized his condemnation of anti-Semitism.

Jewish groups reported anti-Semitic statements and attitudes online, especially, but not exclusively, in association with statements on the government of Israel and the Holocaust. The government has laws that punish anti-Semitic statements and Holocaust denial; the government generally enforced the law when notified.

### **Trafficking in Persons**

See the Department of State's *Trafficking in Persons Report* at <https://www.state.gov/trafficking-in-persons-report/>.

### **Persons with Disabilities**

The law prohibits discrimination against persons with physical, sensory, intellectual, or mental disabilities. The government enforced these provisions. The law requires all new government-owned buildings and buildings undergoing renovation to be accessible to persons with disabilities. Private facilities and services as well as existing government-owned buildings are not subject to the law. The accessibility of public transportation outside the capital was limited. The law recognizes German sign language, allowing deaf and hard-of-hearing persons to use both the language and a state-paid translator in their communications with government.

On July 10, parliament adopted legislation that calls on public-sector bodies to render the content of their websites and mobile applications more accessible to persons with disabilities, in accordance with EU norms. The Information and Press Service, the official organ responsible for circulating communications from the government, periodically monitored the accessibility requirements and reported on the outcome. The legislation does not include sanctions for violations.

There were reports of the forced administration of contraceptives to women with disabilities who were of reproductive age, particularly of women and girls with intellectual disabilities who were living in state-funded institutions.

The education system allows children with disabilities to attend their local schools with their nondisabled peers. Parents, however, can decide to place their children in segregated classes. According to a representative of InfoHandicap, an organization for persons with disabilities, most children with disabilities attend segregated classes due to the lack of trained teachers to respond to the children's needs. He further noted that attending those segregated classrooms impacts a child's chances of employment or pursuing higher education, as these segregated classes do not issue diplomas. A representative of the Ministry of Education noted that the ministry increased financial resources and trained personnel to allow a maximum number of children with disabilities to attend their local schools with their nondisabled peers. He further noted that most children attending segregated classes suffer from mental and physical disabilities that are serious enough to prevent them from pursuing employment or higher education.

The law permits persons with mental disabilities to be placed under legal guardianship. Persons under guardianship lose the right to vote.

## **Acts of Violence, Discrimination, and Other Abuses Based on Sexual Orientation and Gender Identity**

The law prohibits all forms of discrimination based on sexual orientation or gender identity and applies to lesbian, gay, bisexual, transgender, and intersex persons. There were no reports of violations of the law during the year.

The law provides protections for transgender persons, including simplified legal gender recognition without first obtaining a medical certificate or undergoing sex reassignment surgery.

### **Section 7. Worker Rights**

#### **a. Freedom of Association and the Right to Collective Bargaining**

The law provides for the rights of workers, including foreign workers and workers in the informal sector, to form and join independent unions of their choice, to bargain collectively, and to conduct legal strikes. The law allows unions to conduct their activities without interference. Workers exercised these rights freely, and the government protected these rights. The law prohibits antiunion discrimination and requires reinstatement of workers fired for union activity.

The right to strike excludes government workers who provide essential services. Legal strikes may occur only after a lengthy conciliation procedure between the parties. For a strike to be legal, the government's national conciliation office must certify that conciliation efforts have ended.

The government effectively enforced the law. Resources, inspections, and remediation efforts were adequate. Penalties were sufficient to deter violations. The government and employers respected freedom of association and the right to collective bargaining in practice.

#### **b. Prohibition of Forced or Compulsory Labor**

The law prohibits all forms of forced or compulsory labor. Continuously improving its resources and inspections, the government pursued suspected cases and effectively enforced the law. Penalties for violations included imprisonment under criminal law and were sufficient to deter violations.

There were reports that foreign men and women were engaged in forced labor, chiefly in the construction and restaurant sectors. Some children were engaged in forced begging (see section 7.c.).

Also see the Department of State's *Trafficking in Persons Report* at <https://www.state.gov/trafficking-in-persons-report/>.

### **c. Prohibition of Child Labor and Minimum Age for Employment**

The law prohibits the worst forms of child labor and the employment of children younger than 16. Trainees younger than age 16 must attend school in addition to their job training. The law also prohibits the employment of workers younger than 18 in hazardous work environments, on Sundays and official holidays, or for nighttime work. The Ministries of Labor and Education effectively enforced the child labor laws.

Romani children from neighboring countries were sometimes brought into the country during the day and trafficked for the purpose of forced begging (see section 7.b.).

Government resources, inspections, and remediation efforts were adequate. By law persons who employ children younger than 16 may be subject to a fine and prison sentence. The penalties were sufficient to deter violations.

### **d. Discrimination with Respect to Employment and Occupation**

The law prohibits discrimination with respect to employment and occupation based on race, color, political opinion, sex, disability, language, sexual orientation or gender identity, HIV-positive status or other communicable diseases, or refugee or social status. The government effectively enforced these laws and regulations. The labor code prohibits discrimination based on religion, national extraction, or social origin.

Employers occasionally discriminated against persons with disabilities in employment (see section 6, Persons with Disabilities). The law establishes quotas that require businesses employing more than 25 persons to hire workers with disabilities and pay them prevailing wages, but InfoHandicap, an NGO for persons with disabilities, noted that the government had not enforced these laws consistently.

The law provides for the same legal status and rights for women as for men, including rights under labor law and in the judicial system. The law mandates equal pay for equal work. According to information provided by the Ministry of Equality between Women and Men, during the year employers paid women 5.5 percent less on average than men for comparable work.

#### **e. Acceptable Conditions of Work**

As of January 1, the national minimum wage for a worker above the age of 18 was greater than the estimated poverty income level. Minimum wage provisions apply to all employees, including foreign, migrant, temporary, and contract workers.

The Labor Inspection Court (ITM), the Social Security Ministry, and the Superior Court of Justice are responsible for enforcing laws governing maximum hours of work and mandatory holidays. The government regularly conducted investigations and transferred cases to judicial authorities. The majority of alleged violations occurred in the construction sector. The agencies effectively enforced the law, when notified. The law's penalties are sufficient to deter violations. In 2018 the ITM carried out 3,667 checks and levied a total of 2.208 million euros (\$2.429 million) in fines.

The law mandates a safe working environment. Workers can remove themselves from situations endangering health and safety without jeopardizing their employment. Authorities effectively protected employees in this situation. Penalties are sufficient to deter violations.

The Labor Inspectorate of the Ministry of Labor and the accident insurance agency of the Social Security Ministry are responsible for inspecting workplaces. The ITM reported it needs more personnel because the number of inspectors was not sufficient to identify violations as the country's construction sector continues to expand. Workers have the right to ask the Labor Inspectorate to make a determination regarding workplace safety. Penalties for violations included fines and imprisonment and were generally sufficient to deter violations. Accidents occurred most frequently in the construction and catering sectors. In 2018 the ITM recorded 442 accidents (versus 384 accidents in 2017), including 10 fatalities.