

# LUXEMBOURG 2018 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. On October 14, the country held parliamentary elections that observers considered free and fair.

Civilian authorities maintained effective control over the security forces.

There were no reports of egregious human rights abuses.

The government prosecuted officials in the security services and elsewhere in the government who allegedly committed human rights abuses, and there was no impunity for such 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 proper investigations of credible allegations of mistreatment.

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

Improvements: On July 4, parliament unanimously adopted two laws, one focused on sentencing and one on prison administration. Both laws are part of a larger prison reform focused on successful rehabilitation. The law on sentencing creates a process for detainees to appeal sentencing and administrative decisions and makes several other reforms.

Starting September 15, the law on prison administration creates a system for supervising detention, parole, and probation. It also creates a sociojudicial psychiatric unit and allows penitentiary officers to carry arms, both lethal and nonlethal, as well as pepper spray, and to use them in self-defense and other well-defined scenarios. In addition, all detainees have the option to sign a "voluntary insertion plan" that monitors the convict from his or her incarceration to his or her early release and can cover different topics, such as training and competence development. Revisited at regular intervals, the plan is designed to serve as the basis for possible release on parole.

#### **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, and the government generally observed these requirements.

#### **Role of the Police and Security Apparatus**

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 Grand Ducal Police and Luxembourg Army, and the government has effective mechanisms to investigate and punish abuse. There were no reports of impunity involving the security forces during the year.

### **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.

Pretrial Detention: Approximately one-half of the roughly 600 prisoners in the closed prison in Schressig were awaiting trial. Trial procedures can last up to several months because most cases involve collaboration with foreign authorities, as most detainees are noncitizens. Judges must renew the authorization for pretrial detention regularly, and detainees are entitled to appeal that decision.

### **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 with an attorney of their choice in a timely manner. 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 are open questions about compensation for destroyed property owned by Holocaust survivors who were either 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 governing 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.

### **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 (\$290 and \$2,000) for violations.

The public prosecutor’s office and the courts respond 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.

### **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.

According to statistics compiled by the International Telecommunication Union, approximately 97 percent of the country’s population used the internet in 2017.

### **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 [www.state.gov/religiousfreedomreport/](http://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.

The government cooperated with the Office of the UN High Commissioner for Refugees and other humanitarian organizations in providing protection and assistance to internally displaced persons, refugees, returning refugees, asylum seekers, stateless persons, or other persons of concern.

#### **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. Applicants for asylum continued to experience prolonged waiting periods for adjudication of their claims in some individual cases.

A small number of Iraqi nationals held a peaceful sit-in in Luxembourg City during the year. According to several news outlets, they were primarily persons whose requests for asylum status were rejected by the Directorate of Immigration and who were demanding protection and the authorization to work in the country. The government denied exerting pressure on the refugees to return to their country of origin and claimed that it granted the Iraqi nationals a six-month, renewable suspension of deportation instead. The government issued temporary working permits to those Iraqi nationals who had requested them and qualified, as follows: the employee and the employer jointly submit a request for a temporary working permit for a position which the Employment Development Agency has already declared vacant and for which EU nationals have already been given priority. The six months renewable temporary work permit is only valid for one profession and one employer.

Authorities determined the granting or denying of protection on a case-by-case basis through individual interviews and background checks. The Directorate of Immigration employed an accelerated procedure for nationals of safe countries of origin as determined by the 2006 Asylum Law and updated annually by the Ministry of Foreign Affairs. As part of the procedure, following the submission of the application, the directorate interviews applicants. Following the interview, the

directorates considers whether the applicant falls under the normal procedure. In the event that the accelerated procedure applies, the directorate notifies the applicant. The accelerated procedure can last up to two months, with a possibility to reduce waiting time to six days for nationals of safe countries of origin. The applicant may file an appeal within 15 days after receiving the directorate's decision.

Employment: Once granted asylum, there are no legal restrictions on a refugee's ability to work. Most jobs, however, have language requirements that may present a barrier. According to the country's Refugee Council (a collection of nongovernmental organizations (NGOs) assisting refugees), application procedures are lengthy and not adapted to the needs of the labor market. 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 foreign nationals only if no qualified citizen applies within three weeks. The Ministry of Foreign Affairs must approve requests for temporary work permits.

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 government provided temporary protection (known as "subsidiary protection") to individuals who may not qualify as refugees and provided it to approximately 54 persons during 2017.

### **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: On October 14, 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 has two bodies that deal with human rights, 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, even though many assistance

institutions are private or run by a not-for-profit organization that often receives government support. The Center for Equal Treatment can receive complaints against the private sector but cannot take cases to court on behalf of the victim.

## **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 10-day period that can be extended for an additional three months. Penalties may include fines and imprisonment. If an individual approaches an NGO for assistance in cases involving domestic abuse, police are required to investigate.

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 2017 authorities prosecuted 126 cases of indecent assault and 84 cases of rape, representing decreases from 2016. In 2017 police intervened 715 times in domestic violence situations, and prosecutors authorized 217 evictions of the abuser from the domestic home as a result of these incidents; these also represent decreases from the prior year.

On February 28, the country amended its penal code to combat the exploitation of prostitution, procuring, and human trafficking for sexual purposes. The law criminalizes client solicitation and accepting or obtaining in exchange for remuneration or a promise to remunerate relations of a sexual nature by a person who is a victim of human trafficking.

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. In the fall the Ministry of Equal Opportunities launched an awareness campaign and conducted training. On July 3, parliament approved the Istanbul Convention on preventing and combatting violence against women and domestic violence, which also addresses sexual harassment. The Interministerial Committee of Human Rights, under the supervision of the Ministry of Foreign Affairs and in close cooperation and coordination with the Ministry of Justice and Ministry of Equal Opportunity, implements the convention and collects all required data.

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 adopted on February 28 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 euros (\$290) to 50,000 euros (\$57,500).

The minimum legal age for consensual sex is 16.

Displaced Children: In a June 2017 report, the Immigration Directorate noted there were 50 asylum requests for unaccompanied children, almost equal to the 51 requests it received in 2016. 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.html>.

### **Anti-Semitism**

The Jewish community numbered approximately 1,500 persons. There were no reports of anti-Semitic acts.

### **Trafficking in Persons**

See the Department of State's *Trafficking in Persons Report* at [www.state.gov/j/tip/rls/tiprpt/](http://www.state.gov/j/tip/rls/tiprpt/).

### **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 permits persons with mental disabilities to be placed under legal guardianship. There were reports of the forced administration of contraceptives to women of reproductive age with disabilities, particularly of women and girls with intellectual disabilities living in state-funded institutions.

On July 24, parliament recognized German sign language, allowing deaf and hard of hearing people to use both the language and a state-paid translator in their communications with government.

### **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.

## **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. While its resources and inspections were limited, 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, women, and children were engaged in forced labor, chiefly in the construction and restaurant sectors. Some children were engaged in forced labor (see section 7.c.).

Also see the Department of State's *Trafficking in Persons Report* at [www.state.gov/j/tip/rls/tiprpt/](http://www.state.gov/j/tip/rls/tiprpt/).

### **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 age 16. Apprentices who are younger than age 16 must attend school in addition to their job training. The law also prohibits the employment of workers younger than age 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.

Forced child labor occurred in restaurants and the construction sector. Romani children from neighboring countries were sometimes brought into the country during the day and trafficked for the purpose of forced begging.

Government resources, inspections, and remediation efforts were adequate. By law persons who employ children younger than age 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 the government acknowledged it had not applied or 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 Equal Opportunities, during the year employers paid women 5.4 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 older than age 18 was greater than the estimated poverty income level of 1,691 euros (\$1,945) per month in 2016. Minimum wage provisions apply to all employees, including foreign, migrant, temporary, and contract workers.

The Labor Inspection Court, 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 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.

The Labor Inspectorate of the Ministry of Labor and the accident insurance agency of the Social Security Ministry are responsible for inspecting workplaces, but the Labor Inspectorate did not have adequate skilled inspectors to fulfill this responsibility effectively. 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.