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## 2010 Human Rights Report: Luxembourg

BUREAU OF DEMOCRACY, HUMAN RIGHTS, AND LABOR

### 2010 Country Reports on Human Rights Practices

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The Grand Duchy of Luxembourg, with a population of approximately 500,000, is a constitutional monarchy with a democratic, parliamentary form of government. The role of the grand duke is mainly ceremonial and administrative. Legislative authority is vested in the unicameral Chamber of Deputies. The prime minister is the leader of the dominant party in the popularly elected parliament. In June 2009 the country held parliamentary elections that were considered free and fair. Security forces reported to civilian authorities.

Some overcrowding and instances of substandard prison conditions were reported. There were some cases of domestic violence and allegations of human trafficking, primarily of women for sexual exploitation.

#### **RESPECT FOR HUMAN RIGHTS**

Section 1 Respect for the Integrity of the Person, Including Freedom From:

a. Arbitrary or Unlawful Deprivation of Life

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

b. Disappearance

There were no reports of politically motivated disappearances.

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

Prison and detention center conditions generally met international standards, and the government permitted monitoring visits by independent human rights observers. On October 28, the Council of Europe's Committee for the Prevention of

Torture (CPT) released a report on the April 2009 CPT delegation visit to examine safeguards afforded persons deprived of their liberty by the police and review conditions at the Schrassig Prison, the State Socio-Educational Center at Dreiborn, and the Neuropsychiatric hospital at Ettelbruck. The CPT was critical of a number of issues within the police and judicial authority, namely the lack of mattresses in cells reserved for the intoxicated, the use of solitary confinement as a disciplinary measure, and the "caging" of suspects before interrogation, a process in which detainees were left in a room with floor-to-ceiling bars until questioned. Other CPT recommendations included an hour of outdoor exercise each day for detainees at the State Socio-Educational Center at Dreiborn, improved access to a dentist for all detainees, and better monitoring of cells at the security facilities.

According to press reports, overcrowding in the country's Schrassig Prison remained a problem. Legislation adopted in 2007 appropriated funding for the construction of a detention center for refused asylum seekers to relieve prison overcrowding. The capacity of the prison is 598, and the population is 616 detainees. Construction of the new facility is underway, with an estimated completion date in 2011. Refused asylum seekers are imprisoned if they fail to depart the country voluntarily within a specified time period. They may be imprisoned for a maximum of four months while arrangements are made to deport them.

Three deaths occurred in Schrassig Prison during the year. On April 11, a 25-year-old detainee was found dead in his bed. On June 11, a female detainee was found dead in her cell. On June 30, one detainee died a natural death after a long illness. The government is investigating the first two cases.

In an answer to a parliamentary question, Justice Minister Biltgen announced that 288 grams of drugs were seized in Schrassig Prison between March 2009 and August 2010.

#### d. Arbitrary Arrest or Detention

The constitution and law prohibit arbitrary arrest and detention, and the government generally observed these prohibitions.

#### Role of the Police and Security Apparatus

Civilian authorities maintained effective control over the Grand Ducal Police and the judiciary police, and the government has effective mechanisms to investigate and punish abuse and corruption. There were no reports of impunity involving the security forces during the year.

#### Arrest Procedures and Treatment While in Detention

Warrants issued by a duly authorized official are required for arrests in most cases. Within 24 hours of arrest, police must inform detainees of charges against them and bring them before a judge for determination of the detention's legality. There is a functioning bail system, which judges regularly employed. Detainees are given immediate access to an attorney, whose services are provided at government expense for indigent detainees. Detainees were allowed prompt access to family members.

#### e. Denial of Fair Public Trial

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

#### Trial Procedures

The constitution provides for the right to a fair trial, and an independent judiciary generally enforced this right. Defendants enjoy a presumption of innocence. Trials are public except for those involving sexual or child abuse. There are no jury

trials. Defendants have the right to be present and to consult with an attorney in a timely manner. Defendants may confront or question witnesses against them and present witnesses and evidence on their behalf. Defendants and their attorneys have access to government-held evidence relevant to their cases. Defendants have the right of appeal.

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A legal basis exists for the establishment of religious and military courts under special circumstances, but no such action has occurred in more than 60 years.

#### Political Prisoners and Detainees

There were no reports of political prisoners or detainees.

#### Regional Human Rights Court Decisions

In 2009 the European Court of Human Rights (ECHR) issued judgments in two separate cases that found that the country had violated the right to a fair trial as provided under the European Convention on Human Rights. The ECHR took formal note of the friendly settlement reached by the government of the country and the applicant in one case, with the requesting state paying 50,000 euros (\$67,000) to the complainant. In the second case, the requesting state had to pay 10,000 euros (\$13,400) to the complainant.

#### Civil Judicial Procedures and Remedies

The magistrate courts serve as an independent and impartial judiciary in civil and commercial matters and are available to individuals who wish to bring lawsuits seeking damages for, or cessation of, a human rights violation.

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

The constitution and law prohibit such actions, and the government respected these prohibitions in practice.

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

##### a. Freedom of Speech and Press

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

The independent media were active and expressed a wide variety of views without restriction.

#### Internet Freedom

There were no government restrictions on access to the Internet or reports that the government monitored e-mail or Internet chat rooms. Individuals and groups could engage in the peaceful expression of views via the Internet, including by e-mail. A majority of the population had connections to the Internet. The European Commission indicated that 87 percent of households were connected to the Internet, and 71 percent of households had broadband connections. Using 2009 statistics, the International Telecommunication Union estimated that approximately 80 percent of the country's inhabitants used the Internet.

#### Academic Freedom and Cultural Events

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

##### b. Freedom of Peaceful Assembly and Association

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

#### c. Freedom of Religion

For a complete description of religious freedom, please see the *2010 International Religious Freedom Report* at [www.state.gov/g/drl/irf/rpt/](http://www.state.gov/g/drl/irf/rpt/).

#### d. Freedom of Movement, Internally Displaced Persons, Protection of Refugees, and Stateless Persons

The constitution and law provide for freedom of movement within the country, foreign travel, emigration, and repatriation, and the government generally respected these rights in practice. The government cooperated with the Office of the UN High Commissioner for Refugees and other humanitarian organizations in providing protection and assistance to refugees, asylum seekers, stateless persons, and other persons of concern.

The law prohibits forced exile, and the government did not employ it.

#### Protection of Refugees

The country's laws provide for the granting of asylum or refugee status, and the government has established a system for providing protection to refugees. While statistics for the year were not yet available, in 2009, 505 individuals asked for asylum; 207 of these requests were rejected. In practice the government provided protection against the expulsion or return of refugees to countries where their lives or freedom would be threatened on account of their race, religion, nationality, membership in a particular social group, or political opinion. There are no laws that deny asylum based on an applicant's country of origin. There is no "black list" for repatriation; each dossier is examined on its merits. The government applies the safe country of transit principle.

In August the government repatriated a Serbian family (father, mother, and two children, ages 20 and 30) to Belgrade.

The law provides for the possibility of granting protection to individuals who may not qualify as refugees; the government did not grant such protection during the year.

#### Section 3 Respect for Political Rights: The Right of Citizens to Change Their Government

The constitution and law provide citizens the right to change their government peacefully, and citizens exercised this right through periodic, free, and fair elections based on universal suffrage.

#### Elections and Political Participation

In June 2009 the country held elections for the 60 seats in the Chamber of Deputies. The elections were considered free and fair. Also on that date, the country held elections to the European Parliament that were considered free and fair.

Political parties operated without restrictions or outside interference.

There were 12 women in the 60-member Chamber of Deputies and four women in the 15-member cabinet. There were 15 women in the 32-member Supreme Court.

There was one parliamentarian of Portuguese descent, and one minister of Italian descent.

#### Section 4 Official Corruption and Government Transparency

The law provides criminal penalties for official corruption, and the government generally implemented these laws effectively. There were no reports of government corruption during the year. The Ministry of Justice is responsible for combating government corruption. Public officials are not subject to financial disclosure laws.

There is no law providing public access to government information; in practice the government granted access to government information to members of the public and placed extensive quantities of government information on official Web sites.

#### Section 5 Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights

A number of domestic and international human rights groups generally operated without government restriction, investigating and publishing their findings on human rights cases. Government officials were cooperative and responsive to their views. There is an Ombudsman Committee for the Rights of Children.

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

The law prohibits discrimination based on race, gender, disability, language, or social status, and the government effectively enforced it.

##### Women

The law prohibits rape, including spousal rape, and the government enforced the law effectively. The legal penalties range from five to 10 years imprisonment. The law prohibits domestic violence, and the government effectively enforced it. The law is gender neutral and provides that abusers will be removed from their residences for 10 days; this can be extended an additional three months. Penalties may include fines and imprisonment. If a person approaches a nongovernmental organization (NGO) for assistance, the police are required to investigate. In 2009 there were 572 cases of police intervention relating to spousal abuse and 302 police expulsions of the abusing spouse. These figures were higher than for the previous year. The government funded organizations that provided shelter, counseling, and hotlines. There are three hotlines for abused women. In 2009 government-sponsored NGO shelters provided refuge to approximately 398 women and 560 children. The government also provided financial assistance to domestic violence victims.

The law prohibits sexual harassment and requires employers to protect employees from sexual harassment. The law prohibits gender-based job discrimination and harassment of subordinates by superiors. Disciplinary measures against offenders are available, including dismissal. An employer's failure to take measures to protect employees from sexual harassment is considered a breach of contract, and an affected employee has the right to paid leave until the situation is rectified. Sexual harassment in the workplace was not widely considered a problem.

Couples and individuals have the right to decide freely and responsibly the number, spacing, and timing of their children and to have the information and means to do so free from discrimination, coercion, and violence. There was easy access to contraception and skilled attendance during childbirth, and the rate of maternal mortality was low (17 deaths per 100,000 live births, according to UN Population Fund statistics for 2008). Women and men were equally diagnosed and treated for sexually transmitted infections, including HIV. There were no barriers that limited access to maternal health services.

Women enjoy the same legal rights as men, including rights under family law, property law, and in the judicial system. The law mandates equal pay for equal work; however, according to government reports, women were paid 14 to 16 percent less than men for comparable work. The Ministry of Equal Opportunity is responsible for protecting the legal and social rights of women. In 2009 the government conducted a two-month media campaign in all of the country's high schools

promoting equal rights for men and women. In November the ministry promoted equal rights at the annual student fair, with a series of roundtable discussions.

#### Children

Citizenship is governed by the principle of descent, according to which a father or mother who is a citizen of the country automatically conveys citizenship to their offspring at birth. The government registers all births immediately.

A special police unit is responsible for the protection of minors, and two call centers--one government-run, the other NGO-administered--are available to child victims of abuse. Neither the government nor NGOs compiled statistics on child abuse during the year.

The country is a party to the 1980 Hague Convention on the Civil Aspects of International Child Abduction. For information on international parental child abduction, please see the Department of State's annual report on compliance with the convention at <http://travel.state.gov/abduction/resources/congressreport/congressreport4308.html>.

#### Anti-Semitism

There were no reports of anti-Semitic acts. The Jewish community numbered approximately 1,000 persons.

#### Trafficking in Persons

For information on trafficking in persons, please see the Department of State's annual *Trafficking in Persons Report* at [www.state.gov/g/tip](http://www.state.gov/g/tip).

#### Persons with Disabilities

The law prohibits discrimination against persons with disabilities in employment, education, access to health care, or in the provision of other state services or other areas, and the government effectively enforced these provisions. The law does not require government or privately owned buildings to be accessible to persons with disabilities, but the government subsidized the construction of "disabled friendly" structures. The NGO Aid for Handicapped Children advocated for the protection of the rights of persons with disabilities. The government and Info Handicap, an NGO, organized a campaign entitled "For Mobile People with Handicaps" in which representatives of the national railway company met with persons with disabilities with the goal of improving access to public transportation.

The law establishes quotas requiring businesses that employ more than 25 persons to hire unspecified number of workers with disabilities and pay them prevailing wages, but the government acknowledged that these laws were not applied or enforced consistently.

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

There was one organization for lesbian, gay, bisexual, and transgender persons that operated without any impediment. An annual gay pride event took place in May. The government authorized the event and police provided sufficient protection.

There were no reported incidents of discrimination based on sexual orientation.

#### Other Societal Violence or Discrimination

There were no reports of official or societal discrimination against persons with HIV/AIDS.

#### Section 7 Worker Rights

#### a. The Right of Association

The law allows workers to form and join independent unions of their choice without previous authorization or excessive requirements, and workers exercised these rights. Approximately 50 percent of the workforce (including transborder workers who commute from neighboring countries) was unionized. The law allows unions to conduct their activities without interference, and the government protected this right in practice. The law provides for the right to strike, except for 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.

#### b. The Right to Organize and Bargain Collectively

The law provides for the right to collective bargaining, and workers exercised this right freely. Approximately 66 percent of workers were under collective bargaining agreements. There were no reported examples of antiunion discrimination.

There are no export processing zones.

#### c. Prohibition of Forced or Compulsory Labor

The law prohibits forced or compulsory labor; however, there were reports of trafficking in women for sexual exploitation.

For information on trafficking in persons, please see the Department of State's annual *Trafficking in Persons Report* at [www.state.gov/g/tip](http://www.state.gov/g/tip).

#### d. Prohibition of Child Labor and Minimum Age for Employment

There are laws to protect children from exploitation in the workplace, and the government effectively enforced these laws. There were no reports of child labor.

The law prohibits the employment of children under the age of 16. Apprentices who are 16 years old must attend school in addition to their job training. Workers under the age of 18 have additional legal protection, including limits on overtime and the number of hours that can be worked continuously. The ministries of labor and education effectively enforced the child labor laws.

The Ombuds-committee for Children's Rights (a different institution from the ombudsman) carries out a series of inspections including inspections for child labor.

#### e. Acceptable Conditions of Work

The national minimum wage for a single worker over the age of 18 was 1,683 euros (\$2,143) per month for unskilled workers and 2,019 euros (\$2,571) for skilled workers. The minimum wage was not sufficient to provide a decent standard of living for a worker and family; however, most employees earned more than the minimum wage. The Ministry of Labor enforced the minimum wage effectively. Foreign and migrant workers are covered by minimum wage provisions.

The law mandates a maximum workweek of 40 hours. Premium pay is required for overtime or unusual hours. Sunday employment is permitted in continuous-process industries (steel, glass, and chemicals) and for certain maintenance and security personnel; other industries must request permission for Sunday work, which the government granted on a case-by-case basis. Work on Sunday, allowed for some retail employees, must be entirely voluntary and compensated at double the normal wage or with compensatory time off on another day, equal to the number of hours worked on Sunday.

The law requires rest breaks for shift workers and limits all workers to a maximum of 10 hours per day, including overtime. The labor inspection court and the Superior Court of Justice are responsible for enforcing these laws.

The law mandates a safe working environment. An inspection system provided penalties for infractions. The labor inspectorate of the Ministry of Labor and the accident insurance agency of the Social Security Ministry carried out effective inspections. No laws or regulations specifically provided workers with the right to remove themselves from dangerous work situations without jeopardy to their continued employment; however, every worker has the right to ask the labor inspectorate to make a determination regarding workplace safety, and the inspectorate usually did so expeditiously.

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