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**STATUS OF HUMAN RIGHTS IN THE GRAND DUCHY OF LUXEMBOURG
FOR THE 43RD SESSION OF THE
UNIVERSAL PERIODIC REVIEW**

*www.ECLJ.org
4, quai Koch
67000 Strasbourg, France*

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Introduction

1. The European Centre for Law and Justice (ECLJ) is an international, non-governmental organization dedicated to promoting and protecting human rights around the world. The ECLJ also holds Special Consultative status before the United Nations Economic and Social Council. The purpose of this report is to raise concerns regarding human rights violations in the Grand Duchy of Luxembourg (Luxembourg) for the 43rd Session of the Universal Periodic Review (UPR).

Background

2. Luxembourg is in Western Europe and has a population of approximately 650,364 people.¹ The population is predominately Christian, with 70.6% of the population identifying as Christian, 2.3% as Muslim, 26.7% as unaffiliated, and 0.4% as other,² including 0.19% as Jewish.³

3. Luxembourg's previous UPR was held on January 18, 2018.⁴ As a result of the review, Luxembourg received 149 recommendations, 135 of which were supported by Luxembourg.⁵ One recommendation made by Indonesia and supported by Luxembourg was that the government "[s]trengthen measures to prevent and combat human trafficking, including by improving the identification process of victims of human trafficking."⁶ Further, despite having legalized euthanasia in 2008,⁷ there were no recommendations made for Luxembourg to amend its laws to eliminate this deadly practice.⁸

4. It was also recommended by Ireland, and supported by Luxembourg, that the government "[p]roceed with proposed legislative reforms to introduce the specific criminal offence of female genital mutilation to the Criminal Code."⁹ Further, while antisemitism is a growing problem in Luxembourg, no recommendations were made regarding this issue.¹⁰

Legal Framework

Human Trafficking

5. Article 382-1 of the Penal Code of Luxembourg defines human trafficking as the recruiting or transporting of an individual for purposes of sexual exploitation, forced labor, or for the removal of organs.¹¹ Convicted individuals shall be punished with a prison sentence of three to five years and a fine of between €10,000 and €50,000.¹² The same act shall result in a fine of €50,000 to €100,000 and a prison sentence of five to ten years when the act involves trafficking a child or the life of the victim is placed in imminent danger.¹³

6. Furthermore, under Article 8 of the International Covenant on Civil and Political Rights (ICCPR), to which Luxembourg is a party,¹⁴ “[n]o one shall be held in slavery; slavery and the slave-trade in all their forms shall be prohibited. No one shall be held in servitude.”¹⁵

7. Additionally, Luxembourg is a party to the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime.¹⁶ Article 9 of the Protocol requires “States Parties to establish comprehensive policies, programmes and other measures” “[t]o prevent and combat trafficking in persons” and “[t]o protect victims of trafficking in persons, especially women and children, from revictimization.”¹⁷

Euthanasia

8. According to Luxembourg’s Law on the Right to Die with Dignity, patients enduring unbearable sufferings are allowed to request euthanasia or assisted suicide.¹⁸ However, as a party to the International Covenant on Civil and Political Rights (ICCPR) and the Convention on the Rights of Persons with Disabilities (CRPD), Luxembourg is required to protect human life. Article 6 of the ICCPR requires that no human being be arbitrarily deprived of his life.¹⁹ And, Article 10 of the CRPD requires that “States Parties reaffirm that every human being has the inherent right to life and shall take all necessary measures to ensure its effective enjoyment by persons with disabilities on an equal basis with others.”²⁰

Female Genital Mutilation

9. In July 2018, Luxembourg enacted Section 409 Bis of the Penal Code, which prohibits Female genital mutilation (FGM). It prescribes three to five years in prison and a fine of 500 to 10,000 EUR for “[a]ny person who has practised, facilitated or promoted circumcision infibulation or other mutilation of all or any part of the labia majora, labia minora or clitoris of a woman, with or without the consent of a woman.”²¹

10. Luxembourg is also a party to the Convention on the Rights of the Child (CRC),²² which states in Article 19 that “States Parties shall take all appropriate legislative, administrative, social and educational measures to protect the child from all forms of physical or mental violence”²³

Antisemitism

11. Article 19 of Luxembourg’s Constitution protects the freedom of religion, including one’s freedom to exercise one’s religion publicly and to manifest one’s religious opinions.²⁴

12. Article 454 of the Penal Code of Luxembourg prohibits discrimination, including discrimination based on ethnic origin and religion.²⁵

13. Luxembourg is also a party to the International Convention on the Elimination of All Forms of Racial Discrimination, which calls for “a policy of eliminating racial discrimination in all its forms”²⁶

Human Trafficking

14. In Luxembourg, “[t]raffickers exploit victims from Europe, Africa, Asia and South America in sex trafficking operations in cabarets, private apartments, and on the street.” In 2021, authorities identified 17 trafficking victims, including 15 for forced labor and two for sexual exploitation. This is an increase from 2020, when only seven victims were identified. However, the actual number of human trafficking victims is likely higher as many victims often do not file reports because they are afraid that traffickers will hurt them or their families.²⁷ Further, most victims come from other countries and would rather be returned home than endure a court battle.²⁸ While the majority of reported cases involve forced labor, sex trafficking is much more hidden and harder to detect, as sexual exploitation has been moved to “private apartments and online platforms.”²⁹

15. In 2021, the government prosecuted nineteen of twenty suspected traffickers, compared to five in 2020. When it comes to sentencing, “courts issue[] weak sentences for trafficking convictions,” which is a “problem that undercut[s] efforts to hold traffickers accountable and protect victims.” For example, between 2020 and 2021, Luxembourg judges sentenced two traffickers to twelve months in prison for labor trafficking, despite the penal code providing for at least three to five years in prison for that crime.

16. While the above are serious concerns, Luxembourg has taken its international obligations seriously and has taken some positive steps to combat trafficking, particularly in providing aid to the victims. In 2020, Luxembourg increased funding from €7.5 million to €8.4 million for centers that provide shelter and aid for victims of human trafficking. In April 2020, Luxembourg also created its first hotline for victims and individuals to report cases of human trafficking. Additionally, all new police recruits are now required to undergo specific training relating to human trafficking.

Euthanasia

17. Luxembourg legalized the practice of euthanasia and assisted suicide in 2008. Since the law was adopted, 112 people have been euthanized in Luxembourg.³⁰

18. This law is presented as giving patients the “freedom to choose” how they wish to end their life. However, some provisions of the law do not adequately protect people in vulnerable positions. People are allowed to make “end-of-life arrangements” in advance of any medical event that renders them applicable.³¹ Ergo, people are entitled to make binding decisions well in advance of their implementation and without knowing the exact circumstances surrounding them. Since 2009, more than 3,000 people have made such arrangements.³²

19. The law foresees that a person may change their opinion and so allows them to restate, withdraw, or update their end-of-life arrangements.³³ “Such changes must be **recorded**. However, the patient’s **last known wishes always take precedence**, and euthanasia must not be performed if the doctor becomes aware of an expression of the patient’s will, occurring after the duly recorded end-of-life arrangements, in which they retract their wishes to undergo euthanasia.”³⁴ Every five years, the National Control and Assessment Committee contacts people with end-of-life arrangements to confirm the patient’s wishes are still consistent with their arrangement.³⁵ This provision is an acknowledgement by the legislature that a person’s wishes with respect to end-of-life arrangements may change. Despite this, the law still allows

the arrangements to take effect when the person who wrote them cannot affirm whether they still reflect his or her wishes. This is a critical oversight, given that it could quite literally mean the difference between life and death for any of the 3,000 people with such an arrangement.

20. In January 2021, several Special Rapporteurs expressed their concern over what they deem to be a “growing trend to enact legislation enabling access to medically assisted dying based largely on having a disability or disabling conditions, including in old age.”³⁶ As they noted:

These assumptions, which are grounded in ableism and associated stereotypes, have been decisively rejected by the Convention on the Rights of Persons with Disabilities. Disability is not a burden or a deficit of the person. It is a universal aspect of the human condition.

Under no circumstance should the law provide that it could be a well-reasoned decision for a person with a disabling condition who is not dying to terminate their life with the support of the State.³⁷

21. The practice of allowing euthanasia is in itself a flagrant violation of Article 6 of the ICCPR and Article 10 of the CRPD, both of which require States Parties to respect and protect the lives of all people, without exception. States have an obligation not to take part in an intentional killing by a third person, either by providing the means or by not preventing it when possible. One look at Belgium would help Luxembourg understand the severity of the problem. Belgium has lost almost 30,000 lives in the last twenty years due to its law on euthanasia.³⁸ In 2021, seven people lost their lives per day.³⁹ People are being euthanized in Belgium without even informing their next of kin. In March 2019, the ECLJ filed written observations with the European Court of Human Rights in *Mortier v. Belgium*, a case in which a son challenged Belgium’s law because he was not informed that his mother was being euthanized due to chronic depression. Furthermore, the law is being enforced in Belgium by officials who belong to associations that advocate euthanasia. The *Mortier* case and the biased officials responsible for enforcing euthanasia law in Belgium present perfect examples of the serious abuses and excesses that can result from legalizing euthanasia.

22. In fact, Luxembourg is catching up with Belgium. In 2020, it’s National Commission for Control and Evaluation “approved (after the fact) the euthanasia of a 96 year old man based on ‘fatigue of life’ combined with polypathology, citing the Belgian practice. . . . The Commission supports euthanasia for psychiatric conditions” and further states that “discussion on extending the law to allow the euthanasia of minors should not be taboo.”⁴⁰

Female Genital Mutilation

23. In Luxembourg, 12% to 17% of migrant girls from Eritrea, Cote D’Ivoire, Egypt, Ethiopia, Guinea, Guinea-Bissau, and Iraq are at risk for FGM.⁴¹ In order to combat this, Luxembourg has created an awareness campaign showing the dangers of FGM and implementing a national strategy aimed at preventing FGM, which includes caring for the victims.⁴² Additionally, Luxembourg amended its penal code in 2018 to include a “more detailed explanation of the different forms of FGM.”⁴³

24. Clearly, Luxembourg understands the dangerous nature of FGM and the serious and lasting health effects it has on women and girls. We commend Luxembourg for its efforts to protect women and girls who come from FGM practicing nations, and its commitment to the CRC.

Antisemitism

25. In Luxembourg, there are only about 1,200 Jews. They make up “under 0.19% of the total population.”⁴⁴ Yet, the Research and Information on Anti-Semitism in Luxembourg (RIAL) reported that antisemitism incidents have increased by 64% in the past year.⁴⁵ RIAL “recorded 80 anti-Semitic incidents in 2021, including harassment, damage to Jewish cemeteries, and online abuse.”⁴⁶ Sixty-four such incidents occurred in 2020, and thirty have been reported so far in 2022.⁴⁷ According to RIAL, cases of antisemitism have doubled since 2019.⁴⁸

26. In January 2021, Luxembourg attempted to address this issue by entering into an agreement with the Jewish community.⁴⁹ The government agreed to “compensate Holocaust survivors and establish a memorial at the site of a former Nazi internment camp.”⁵⁰ “Luxembourg is [also] planning to hand out tougher punishments for crimes” based on race and religion.⁵¹ These are steps in the right direction for Luxembourg to uphold its international commitments to prevent racial discrimination.

Recommendations

27. While Luxembourg has addressed human trafficking by increasing resources, providing aid for the victims and training for law enforcement, we are concerned that Luxembourg is undermining its efforts by providing lenient sentences for human trafficking. In order for Luxembourg to effectively combat human trafficking and provide justice for the victims, it must prosecute traffickers to the fullest extent of the law.

28. Luxembourg should reform its laws to respect and value innocent human life. To do this, Luxembourg must ban the practice of euthanasia.

29. We want to encourage Luxembourg to continue its efforts to combat FGM in the country. Since the last UPR, Luxembourg has shown a commitment to ending this harmful practice through amending its penal code and implementing a national strategy aimed at prevention and awareness. Luxembourg’s efforts to combat FGM are particularly commendable because the practice is prevalent in migrant communities from FGM practicing countries.

30. Moreover, we urge the government provide more support for those affected by antisemitic hate crimes and endeavor to punish those who are performing such acts.

¹ *Luxembourg*, THE WORLD FACTBOOK (Aug. 10, 2022), <https://www.cia.gov/the-world-factbook/countries/luxembourg/>.

² *Id.*

³ *Luxembourg Sees Antisemitic Incidents Rise 64% in One Year*, EUROPEAN JEWISH CONGRESS (July 4, 2022), <https://eurojewcong.org/news/communities-news/luxembourg/luxembourg-sees-antisemitic-incidents-rise-64-in-one-year/>.

⁴ *Universal Periodic Review - Luxembourg*, OHCHR, <https://www.ohchr.org/en/hr-bodies/upr/lu-index>.

⁵ *Luxembourg*, OHCHR, https://www.ohchr.org/sites/default/files/lib-docs/HRBodies/UPR/Documents/Session29/LU/LUXEMBOURG_Infographic_29th.pdf.

⁶ *UPR of Luxembourg – Thematic List of Recommendations A/HRC/38/11/Add.1* – Para. 25, OHCHR, <https://www.ohchr.org/sites/default/files/lib-docs/HRBodies/UPR/Documents/Session29/LU/MatriceRecommendationsLuxembourg.docx> [hereinafter *Luxembourg Thematic List*].

⁷ *Luxembourg: Right to Die with Dignity*, LIBRARY OF CONGRESS (Mar. 2, 2008), <https://www.loc.gov/item/global-legal-monitor/2008-03-02/luxembourg-right-to-die-with-dignity/>.

⁸ *Cf. Luxembourg Thematic List*, *supra* note 6, A/HRC/38/11/Add.1.

⁹ *Id.* A/HRC/38/11/Add.1 – Para. 6.

¹⁰ *Cf. id.* A/HRC/38/11/Add.1.

¹¹ Penal Code of Luxembourg art. 382-1, <https://www.global-regulation.com/translation/luxembourg/116070729/penal-code.html> (unofficial translation).

¹² *Id.*

¹³ *Id.* art. 382-2.

¹⁴ *Ratification Status for Luxembourg*, OHCHR, https://tbinternet.ohchr.org/_layouts/15/TreatyBodyExternal/Treaty.aspx?CountryID=102&Lang=EN.

¹⁵ International Covenant on Civil and Political Rights art. 8, *adopted* Dec. 16, 1966, 999 U.N.T.S. 171, https://treaties.un.org/doc/Treaties/1976/03/19760323%2006-17%20AM/Ch_IV_04.pdf [hereinafter ICCPR].

¹⁶ A Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime, UNITED NATIONS TREATY COLLECTION, https://treaties.un.org/pages/ViewDetails.aspx?src=TREATY&mtdsg_no=XVIII-12-a&chapter=18&clang=_en.

¹⁷ A Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime art. 9 sec. 1, *adopted on* Nov. 15, 2000, https://treaties.un.org/doc/Treaties/2000/11/20001115%2011-38%20AM/Ch_XVIII_12_ap.pdf.

¹⁸ *Luxembourg: Right to Die with Dignity*, *supra* note 7.

¹⁹ ICCPR art. 6, *supra* note 15.

²⁰ Convention on the Rights of Persons with Disabilities, *adopted on* Dec. 13, 2006, <https://www.ohchr.org/en/instruments-mechanisms/instruments/convention-rights-persons-disabilities>.

²¹ Penal Code of Luxembourg art. 409 Bis, *supra* note 11.

²² Convention on the Rights of the Child, UNITED NATIONS TREATY COLLECTION, https://treaties.un.org/Pages/ViewDetails.aspx?src=TREATY&mtdsg_no=IV-11&chapter=4&clang=_en.

²³ Convention on the Rights of the Child, G.A. Res. 44/25, art. 19 (Nov. 20, 1989), <https://www.ohchr.org/en/instruments-mechanisms/instruments/convention-rights-child>.

²⁴ Lux. CONST. art. 19.

²⁵ Penal Code of Luxembourg art. 454, *supra* note 11.

²⁶ United Nations, *Chapter IV. Human Rights*, INTERNATIONAL CONVENTION ON THE ELIMINATION OF ALL FORMS OF RACIAL DISCRIMINATION art.2 (1966), https://treaties.un.org/doc/Treaties/1969/03/19690312%2008-49%20AM/Ch_IV_2p.pdf.

²⁷ *Local Matters: Human Trafficking in Luxembourg*, ARYA CITY RADIO (Mar. 24, 2022), <https://aracityradio.com/features-blog/2022/3/24/local-matters-human-trafficking-in-luxembourg>.

²⁸ *Id.*

²⁹ *Id.*

³⁰ *Euthanasia Deaths Increase 56% in Luxembourg in 2020*, ONE OF US (Apr. 8, 2021), <https://oneofus.eu/euthanasia-deaths-increase-56-in-luxembourg-in-2020/>.

³¹ *A Decade On: More than 70 People Choose Euthanasia in Luxembourg*, LUXEMBOURG TIMES (May 5, 2021), <https://www.luxtimes.lu/en/luxembourg/a-decade-on-more-than-70-people-choose-euthanasia-in-luxembourg-602d6949de135b9236ab2834>.

³² *Id.*

³³ *Information on Requesting Euthanasia or Assisted Suicide*, GUICHET, <https://guichet.public.lu/en/citoyens/famille/euthanasie-soins-palliatifs/fin-de-vie/euthanasie-assistance-suicide.html> (last visited on Aug. 25, 2022, 2:42 PM).

³⁴ *Id.* (emphasis in original).

³⁵ *National Control and Assessment Committee*, GUICHET https://guichet.public.lu/en/organismes/organismes_citoyens/ministere-sante/commission-contrôle-évaluation-euthanasie.html (last updated Apr. 9, 2021).

³⁶ *Disability is not a Reason to Sanction Medically Assisted Dying – UN Experts*, OHCHR (Jan. 25, 2021), <https://www.ohchr.org/en/press-releases/2021/01/disability-not-reason-sanction-medically-assisted-dying-un-experts>.

³⁷ *Id.*

³⁸ *20 Years of Euthanasia in Belgium: After Almost 30,000 Lives Lost, What Can We Learn?*, ADF INTERNATIONAL, May 25, 2022, <https://adfinternational.org/20-years-euthanasia/>.

³⁹ *Id.*

⁴⁰ *Euthanasia Deaths Increase 56% in Luxembourg in 2020*, ONEOFUS.STUDY, <https://oneofus.eu/euthanasia-deaths-increase-56-in-luxembourg-in-2020/> (last visited Aug. 31, 2022).

⁴¹ *Female Genital Mutilation: How Many Girls are at Risk in Luxembourg*, EIGE, <https://www.cesas.lu/perch/resources/mgf-in-luxembourg-eige.pdf>.

⁴² *Experts of the Human Rights Committee Commended Luxembourg on its Comprehensive Report, ask about Incorporating Treaties in Domestic Law and Female Genital Mutilation*, OHCHR (June 30, 2022), <https://www.ohchr.org/en/press-releases/2022/06/experts-human-rights-committee-commend-luxembourg-its-comprehensive-report>.

⁴³ *Female Genital Mutilation: How Many Girls are at Risk in Luxembourg*, *supra* note 41.

⁴⁴ *Luxembourg Sees Antisemitic Incidents Rise 64% in One Year*, *supra* note 3.

⁴⁵ *Id.*

⁴⁶ *Id.*

⁴⁷ *Id.*

⁴⁸ *Id.*

⁴⁹ *Id.*

⁵⁰ *Id.*

⁵¹ Cliona Hickey & Elena Schmitz, *Incidents of Anti-Semitism In Luxembourg Jumped Last Year*, (June 27, 2022), <https://www.luxtimes.lu/en/luxembourg/incidents-of-anti-semitism-in-luxembourg-jumped-last-year-62b989c4de135b923661cf03>.