

LUXEMBOURG 2017 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 2013 the country held parliamentary elections that were 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 committed 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: The country has one prison, Schrassig Prison, in addition to a state socioeducational center (CSEE) for juveniles with facilities at Schrassig and Dreibern and a semi-open rehabilitation center in Givenich. The Givenich Prison Center is designed for prisoners nearing the end of their sentences or for those with short prison terms. Work is required, either at the facility's workshops or outside the prison, for those who obtain employment contracts. These prisoners are allowed to leave the prison, go to their jobs, and return to the prison at night. The government also operated a detention center for rejected asylum seekers and undocumented migrants awaiting deportation.

In July the parliament authorized the opening of the National Socioeducational Center, a closed prison for minors. Judges still have the legal authority to place children in Schrassig Prison.

In a 2015 report on its visit to the country, the Council of Europe's Committee for the Prevention of Torture (CPT) noted a worrying problem of interprisoner violence at Schrassig Prison. The CPT also found that care for inmates suffering from serious psychiatric disorders was unsatisfactory and criticized the practice of holding detained minors at Schrassig Prison. The CPT observed problems of violence between minors at both the Schrassig and Dreibern CSEE facilities. Subsequently, after the former director's retirement, the government appointed a new director of Schrassig Prison with a background in prison reform.

In its 2015 report the CPT noted allegations of verbal abuse and excessively tight handcuffing. The CPT also criticized the police practice of handcuffing detainees to fixed points prior to or during questioning. For purportedly hygienic reasons, authorities at local police stations did not provide mattresses in cells reserved for intoxicated persons.

Independent Monitoring: The government permitted monitoring by independent human rights observers, including the CPT, through the country's ombudsman.

d. Arbitrary Arrest or Detention

The constitution and law prohibit arbitrary arrest and detention and provides for the right of any person to challenge the lawfulness of his/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 immediately prior to their initial interrogation. In cases of indigent detainees the attorney is paid for by the government. A 2015 CPT report found that access to a lawyer had improved and that in most cases lawyers were able to consult with their clients before the initial interrogation by police. No suspects were detained incommunicado or held under house arrest.

Pretrial Detention: Approximately one-half of prisoners in the closed prison in Schrassig were awaiting trial. Trial procedures are lengthy because most cases involve collaboration with foreign authorities, as most detainees are noncitizens.

Detainee's Ability to Challenge Lawfulness of Detention before a Court: Persons arrested or detained, regardless of whether on criminal or other grounds, are entitled to challenge the legal basis or arbitrary nature of their detention in court and obtain prompt release and compensation if found to have been unlawfully detained.

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 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 are 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 citizens.

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 Luxembourg citizens for Holocaust-era property restitution have been settled. Only citizens of Luxembourg 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 for banks and insurance companies based in the country.

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 (\$300 and \$30,000) for violations.

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 2016.

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/.

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 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.

Authorities determined the granting or denying of protection on a case-by-case basis through individual interviews and background checks. The government, however, refused the majority of applicants from the Balkans because authorities often deemed their requests for protection unfounded and based primarily on economic factors.

Safe Country of Origin/Transit: The government applied the safe country of transit principle. Each asylum seeker's case was reviewed. Asylum seekers from a safe country of origin are entitled to only one appeal of decisions made on their asylum request, as opposed to two appeals for asylum seekers from other countries.

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 14 persons during the year.

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 2013 the country held Chamber of Deputies 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.

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. There were isolated reports of government corruption during the year, which the government prosecuted.

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 future ministers submit the information before they assume office. The declarations are made 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 generally 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 problems related to discrimination based on race or ethnic origin, sex, sexual orientation, religion or beliefs, disability, and age. The three organizations act independently, although they are government funded and composed of government nominees. 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 and children's 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 specialized 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 2016 authorities prosecuted 135 cases of indecent assault and 106 cases of rape, representing increases compared with 2015. In 2016 police intervened 789 times in domestic violence situations, and prosecutors authorized 256 evictions as a result of these incidents. According to the public prosecutor's office, domestic violence mostly occurs between married couples.

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 available. 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.

Coercion in Population Control: There were no reports of coerced abortion, involuntary sterilization, or other coercive population control methods. Estimates on maternal mortality and contraceptive prevalence are available at: www.who.int/reproductivehealth/publications/monitoring/maternal-mortality-2015/en/.

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

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, as of 2008, allows dual citizenship. Citizenship for minor children is automatically conveyed when a parent naturalizes. All residents, regardless of citizenship, are required to register in the commune of residence.

Early and Forced Marriage: The minimum legal age of marriage is 18 for men and 16 for women, provided one of the partners is a resident of the country. Permission of at least one parent is required if one of the partners is under 16.

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. Penalties for the sexual exploitation of children range from five years' to life imprisonment. The minimum legal age for consensual sex is 16.

Displaced Children: In its June report the country's Ombudsman Committee for the Rights of Children noted that there were 50 asylum requests for unaccompanied children in 2016, down from 105 in 2015. In November 2016 the government opened two new specialized housing shelters specifically for unaccompanied children, in addition to the three shelters that already existed, and 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 travel.state.gov/content/childabduction/en/legal/compliance.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 annual *Trafficking in Persons Report* at www.state.gov/j/tip/rls/tiprpt/.

Persons with Disabilities

The law prohibits discrimination against persons with physical, sensory, intellectual, and mental disabilities. The government mostly 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.

Parents have the right to decide whether their children with disabilities will attend their regular local school or a specialized school for children with disabilities.

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 cases 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/.

c. Prohibition of Child Labor and Minimum Age for Employment

The law prohibits the employment of children under the age of 16. Apprentices who are 16 must attend school in addition to their job training. The law also prohibits the employment of workers under 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. Under the law, persons who employ children under 16 may be subject to a fine and prison sentences. 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 on the basis of race, color, political opinion, sex, disability, language, sexual orientation or gender identity, HIV-positive status or other communicable diseases, or social status. The government effectively enforced these laws and regulations. The labor code prohibits discrimination on the basis of 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 8.6 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 over the age of 18 was greater than the estimated poverty income level of 1,650 euros (\$1,980) per month in 2011, the last year for which information was publicly available. 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.