

LUXEMBOURG 2016 HUMAN RIGHTS REPORT

EXECUTIVE SUMMARY

The Grand Duchy of Luxembourg has a constitutional monarchy and a democratic, parliamentary form of government with a popularly elected unicameral Chamber of Deputies (parliament). The prime minister is the leader of the dominant party or party coalition in parliament. In October 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.

Human rights problems reported during the year included cases of domestic violence, primarily against women, and trafficking of women, men, and children for sexual and labor exploitation.

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 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.

Physical Conditions: The country has one prison, Schrassig Prison, and a State Socioeducational Center (CSEE) for juveniles with facilities at Schrassig and Dreibern. The government also operated a detention center for rejected asylum seekers and undocumented migrants awaiting deportation.

In a September 2015 report on its visit to the country earlier that year, 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.

In its report, the CPT noted that, while most detained persons did not report police mistreatment, it received a number of allegations of verbal abuse and excessively tight handcuffing. The CPT also criticized the police practice of handcuffing detainees to fixed points, such as a metal bar on a wall or chair fixed to the floor, 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 and the ECPDL.

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

The Grand Ducal Police maintain internal security. It reports to the Ministry of Internal Security. The Luxembourg Army is responsible for external security. It reports to the Directorate of Defense of the Ministry of Foreign Affairs.

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 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 are guaranteed access to an attorney immediately prior to their initial interrogation. The attorney is paid for by the government in cases of indigent detainees. 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 the police. Authorities permitted detainees access to family members, although the CPT noted that many had to wait several hours before they were allowed to contact relatives. No suspects were detained incommunicado or held under house arrest

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 in court the legal basis or arbitrary nature of their detention 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.

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. The 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, and fair. 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 and have access to government-held evidence relevant to their cases. They may confront witnesses against them and present witnesses and evidence on their own behalf. Defendants 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.

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

The constitution and law prohibits 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 Speech and Press

The constitution and law provide for freedom of speech and 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 speech and press.

Freedom of Speech and Expression: The law prohibits “hate speech” in any medium, including online, and provides for prison sentences between eight days and two years and fines between 251 and 25,000 euros (\$276 and \$27,500) 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 the EU Statistics Office (Eurostat), approximately 95 percent of the country's population used the internet. The law prohibits online hate speech and provides for prison sentences between eight days and two years and fines between 251 and 25,000 euros (\$276 and \$27,500) for violations.

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 the freedoms of 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, Internally Displaced Persons, Protection of Refugees, and Stateless Persons

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, and 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.

Durable Solutions: The country participated in EU relocation and resettlement efforts. Between September 2015 and January 2016, it experienced a significant uptick in asylum requests (mainly from Syrian and Iraqi refugees). Despite this increase, there were no reports of inadequate treatment or housing of asylum seekers.

Temporary Protection: The government also provided temporary protection (known as "subsidiary protection") to individuals who may not qualify as refugees and provided it to approximately seven 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 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 participated.

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 via the government's internet website. There are no criminal or administrative sanctions for noncompliance, and no particular agency has a mandate to monitor the disclosures.

Public Access to Information: While the country does not have a law providing public access to government information, the government granted the public access to such information and placed considerable amounts of government data on official websites.

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 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. The committees act independently, although they are government funded and composed of government nominees. The government provided resources that were sufficient to allow 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.

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, which can be

extended for an additional three months. Penalties may include fines and imprisonment. If an individual approaches a nongovernmental organization 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 during the year.

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.

Reproductive Rights: Couples and individuals have the right to decide the number, spacing, and timing of their children; manage their reproductive health; and to have the information and means to do so, free from discrimination, coercion, and violence.

Discrimination: The law provides for the same legal status and rights for women as for men. Women experienced some discrimination in access to employment.

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.

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. Statistics regarding marriage rates for individuals younger than 18 were not available.

Sexual Exploitation of Children: The law prohibits the commercial sexual exploitation of children, the sale of children, offering or procuring a child for child

prostitution, and practices related to child pornography. Authorities enforced the law. Under the terminology guidelines applied in the country, authorities no longer use the term “child pornography.” Penalties for the sexual exploitation of children range from five years’ to life imprisonment. The minimum legal age for consensual sex is 16.

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 in employment, education, air travel and other transportation, access to health care, the judicial system, the provision of other state services, or other areas. The government mostly enforced these provisions. Disability advocates focused their attention primarily on issues of physical accessibility, with a secondary focus on discrimination. The law requires all new government-owned buildings to be accessible to persons with disabilities. All government-owned buildings undergoing renovation must also be brought into compliance. The government provided door-to-door, on-demand public transportation for persons with disabilities. The government addressed issues related to discrimination and protection through interministerial efforts: the Ministry of Family Affairs, the Center for Equal Treatment, the Office of the Ombudsman, and the Consultative Commission for Human Rights are responsible for protecting the rights of persons with disabilities. The Centre National d’Information et de Rencontre du Handicap, worked to advocate for persons with disabilities and produced *info-handicap.lu*, which has become the leading civil society online platform for disability issues.

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. This law applies to lesbian, gay, bisexual, transgender, and intersex persons.

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 for violations ranged from fines of 251 to 15,000 euros (\$276 to \$16,500) and imprisonment for up to six months. 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 government resources and inspections were limited, the government pursued suspected cases and effectively enforced the law. The penalties for violations ranged from three to 15 years' imprisonment under criminal law and were sufficient to deter violations.

In February 2016 a former cafe owner was convicted of sexual abuse and enslavement and sentenced to 16 years (combined sentence) and a 30,000 euro (\$33,000) fine.

There were reports that foreign men, women, and children were engaged in forced labor, including 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 construction sectors. Romani children were sometimes trafficked during the daytime from neighboring countries to engage in 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 of 251 to 25,000 euros (\$276 to \$27,500) and prison sentences between eight days and six months. 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, gender, 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 and occupation (see section 6). 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 requires private companies with at least 25 workers to hire at least one employee with a disability

and the workforce of larger companies to have between 2 and 4 percent of employees with a disability. For state entities and all publicly owned companies, at least 5 percent of the workforce has to be classified as having a disability.

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 1,923 euros (\$2,120) per month for unskilled workers and 2,307 euros (\$2,540) for skilled workers. The poverty income level was 1,650 euros (\$1,820) 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 law mandates a maximum normal workweek of 40 hours. Premium pay is required for overtime or unusual hours. The law permits Sunday employment in continuous-process industries (steel, glass, and chemicals) and for certain maintenance and security personnel. The law provides for paid annual holidays. Other industries must request permission for Sunday work, which the government considered on a case-by-case basis and generally granted. Work on Sunday, allowed for some retail employees, must be voluntary and compensated at double the normal wage or with compensatory time off on another day, equal to the hours worked on Sunday. The law requires rest breaks for shift workers and limits all workers to a maximum workday of 10 hours, including overtime. The Labor Inspection Court and the Superior Court of Justice are responsible for enforcing these laws. The government conducted investigations and transferred cases to judicial authorities regularly. 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 carried out effective inspections. Workers have the right to ask the labor inspectorate to make a determination regarding workplace

safety, and the inspectorate usually did so effectively. Penalties for violations ranged from fines ranging from 251 to 50,000 euros (\$276 to \$55,000) to one year of imprisonment and were sufficient to deter violations. The construction and catering sectors were the most common sectors where accidents occurred.