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**NATIONAL REPORT SUBMITTED IN ACCORDANCE WITH PARAGRAPH 15 (A)  
OF THE ANNEX TO HUMAN RIGHTS COUNCIL RESOLUTION 5/1\***

**Luxembourg**

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\* The present document was not edited before being sent to the United Nations translation services.

## **Introduction**

1. In the preparation of this report, the Ministry of Foreign Affairs and Immigration, as coordinator of the work and in close cooperation with the other ministries concerned, called several consultation meetings with independent institutions involved in monitoring respect for human rights in Luxembourg, in particular the Advisory Commission on Human Rights, and with civil society associations and organizations engaged in promoting human rights. These meetings provided an opportunity to take account of the comments made by these institutions, associations and organizations well ahead of the drafting of the report.

2. The Grand Duchy of Luxembourg is a signatory to most human rights declarations and conventions, starting with the Universal Declaration of Human Rights. As a signatory of the Declaration and of the various conventions dealing with the protection of human rights, Luxembourg is committed to respecting and ensuring respect for the fundamental rights contained in those documents. Luxembourg believes in the need for an approach based on the primacy of international law and on multilateral cooperation between sovereign, equal States in order to work collectively for peace and development, respect for human rights and the solution of international economic, social, cultural and humanitarian problems.

3. This report does not refer back in any detail to the covenants, conventions and other protocols signed and ratified by Luxembourg, or to cooperation between human rights mechanisms, since that part is covered in the compilation drawn up by the Office of the High Commissioner for Human Rights.<sup>1</sup>

## **I. THEMATIC ANALYSIS**

### **A. Participation in political life, right to vote and nationality**

4. For Luxembourg voters, voting in European, legislative and communal elections is not only a right but a duty, since voting is compulsory for all Luxembourg nationals registered on the electoral lists. Some flexibility is, however, allowed, and voting by correspondence is designed to facilitate the electoral process.

5. In national legislative elections, only Luxembourg citizens are entitled to vote or to stand for election.

6. In communal elections, the nationals of European Union countries who have lived in Luxembourg for at least five years are also entitled to vote, as well as the nationals of non-European Union countries who have resided legally in the Grand Duchy for at least five years. Nationals of the European Union may stand for election in the communes after five years of residence.

7. The nationals of Luxembourg and of the European Union who have been residing in Luxembourg for at least five years are entitled to vote and to stand for election in European elections. A new bill is being introduced to reduce the time of residence required for an active vote in European elections to two years.

8. There are two kinds of national referendum in Luxembourg. The first is used for the purposes of revising the Constitution. This may be initiated either by a certain number of deputies, or by a certain number of the voters registered on the electoral lists for legislative elections.

The Constitution itself allows a general referendum, which may deal with many subjects and which must follow established rules of procedure. This kind of consultative referendum may be called only by the Government.

9. Voters may also be called upon to vote in referendums on communal matters, at the initiative either of the communal authorities or of a certain number of voters. Communal referendums are only consultative in nature.

10. Luxembourg has conducted an effective policy for the integration of foreigners established in Luxembourg by offering them access to Luxembourg nationality.

11. The right to acquire Luxembourg nationality has been adapted to take account of the constant growth of the foreign community established in Luxembourg.

12. In 2001, the Act of 22 February 1968 on Luxembourg nationality was amended to simplify the formalities required to obtain Luxembourg nationality. Since a knowledge of languages was considered to be a positive factor of integration, the reform added a necessary condition for obtaining nationality in the form of an active and passive knowledge of one of the administrative languages of Luxembourg and a basic knowledge of the Luxembourg language.

13. In 2006, a law was adopted to allow Luxembourg citizens born abroad to maintain their Luxembourg nationality without making any special declaration to that effect, even if they reside permanently abroad and hold the nationality of their country of residence in addition to Luxembourg nationality.

14. Under a bill tabled by the Government in October 2006, which should be passed when the parliament meets again, foreigners established in Luxembourg will be allowed to acquire Luxembourg nationality without necessarily giving up their nationality of origin. This acceptance of “multinationality” should encourage more non-Luxembourg residents to acquire Luxembourg nationality.

## **B. Freedom of expression and freedom of expression in the media**

15. The Constitution guarantees people the freedom to express their views in speech on all questions, as well as freedom of the press, subject to penalties in the event that those freedoms are abused.

16. The Act of 8 June 2004 on freedom of expression in the media introduced a thorough reform of the old law, which dated back to 1869. Besides providing the media with a modern and up-to-date working tool, the 2004 Act brought the law into line with the European Convention for the Protection of Human Rights and Fundamental Freedoms and related jurisprudence. The new legislation in fact sought inspiration in the philosophy of the Convention. It was features like legal recognition of the right to protect journalistic sources and the concept of ensuring effective protection in practice for this right that made the new law one of most up-to-date in the field in Europe. It also sought to overcome the conflict between the exercise of freedom of expression and the protection of other rights, such as the protection of privacy or the right to honour and good reputation.

### **C. Freedom of conscience and religion and freedom of association**

17. The Constitution in articles 19 and 20 guarantees freedom of religion, conscience and public worship, subject to respect for public order. There is no need, therefore, for a religious community to apply for prior authorization to practise its faith, and the State will not interfere in the internal affairs of any religion. The Constitution further guarantees the right of peaceful assembly subject to the law and the right of association.

18. Article 22 of the Constitution establishes an optional system for the settlement of relations between the State and religious communities on the basis of “conventions” in certain matters, such as the payment of the salaries of ministers of religion out of public funds. This provision, which dates back to 1868,<sup>2</sup> and its organic texts no longer restrict the scope of these relations to the Catholic, Protestant and Jewish faiths.

19. These conventions may be concluded on certain conditions;<sup>3</sup> for instance, a religious community must be:

- (a) Practising a religion that is recognized worldwide;
- (b) Already officially recognized in at least one Member State of the European Union;
- (c) Prepared to respect public order in the Grand Duchy;
- (d) Well established in Luxembourg and supported in the Grand Duchy by a congregation which is large enough and reasonably representative in its religious practice.

20. Thus conventions based on article 22 of the Constitution have been concluded with the Roman Catholic Archbispopric of Luxembourg, with the Jewish faith, with the Protestant Reformed Church of Luxembourg, the Protestant Church of Luxembourg, the Hellenic Orthodox Church in Luxembourg, the Romanian and Serbian Orthodox Churches of Luxembourg, and the Anglican Church of Luxembourg. Discussions are well under way to arrive at a convention with the Muslim community of Luxembourg.

21. As far as relations between the State and the religious communities are concerned, article 22 has a bearing chiefly on the payment of salaries for religious ministers. Religions that do not wish to sign a convention and those that do not qualify of course enjoy the whole range of their constitutional rights, free of any interference from the State except as regards the maintenance of public order.

### **D. Women’s rights**

22. On 7 March 2008, the Government approved the recommendations of the Committee on the Elimination of Discrimination against Women, adopted on the basis of the fifth report on the Implementation of the Convention dated 23 January 2008.

23. The Government:

- (a) Confirms its commitment to the National Action Plan on Gender Equality;
- (b) Renews the strategy of gender mainstreaming to achieve the objectives of the National Action Plan on Gender Equality;

- (c) Introduces compulsory gender training in order to achieve the mainstreaming of a gender dimension in all actions and measures and in legislation;
- (d) Restarts the implementation of specific measures in government ministries, called for in the National Action Plan on Gender Equality;
- (e) Proposes that the judiciary introduce training on the CEDAW Convention;
- (f) Invites the University of Luxembourg to integrate the CEDAW Convention in law curricula, additional courses on Luxembourg law and courses on social and educational sciences.<sup>4</sup>

24. It further undertakes:

- (a) To strengthen measures to eliminate occupational segregation, both horizontal and vertical, in particular the pay gap;
- (b) To introduce a gender perspective in health policy;
- (c) To strengthen measures to prevent and eradicate all forms of violence against women and girls;
- (d) To report the results of immigration policies, particularly in the fields of education, employment and the eradication of violence.

25. The Government has taken various steps to reinforce the strategy of gender mainstreaming based on the National Action Plan on Gender Equality (2006-2008).<sup>5</sup>

26. When it met on 25 July 2008, the Government adopted a bill to change the legal age of marriage, with implementing legislation, and to abolish the waiting period for widowhood and supplement certain provisions of the Civil Code. The purpose of the preliminary draft law is:

- (a) To introduce the same rights for women and men to enter into marriage, by raising the legal age of marriage for young women to the age of civil majority;
- (b) To establish the principle of forbidding the marriage of minors and protecting their best interest;
- (c) To combat forced marriages as a consequence;
- (d) To permit minors, in certain serious and justified circumstances, exceptionally to enter into marriage by allowing the Public Prosecutor to grant an age dispensation;
- (e) To subordinate the exercise of parents' rights and obligations, in particular with respect to giving consent to the marriage of an under-age child, to the exercise of parental responsibility, in accordance with Draft Law No. 5867 on parental responsibility, thereby placing the father and mother on an equal footing before the law;
- (f) To authorize the guardianship judge to take a decision in the event that consent is refused or that there is disagreement regarding the parents' consent to the marriage of an under-age child, in accordance with the above-mentioned draft law;

(g) To abolish the waiting period for widowed and divorced women wishing to remarry, and to modify the related provisions concerning presumed paternity, in line with the changes introduced in Draft Law No. 5155 on divorce reform;

(h) To extend the time required for an application to annul the marriage of a minor, in order to be consistent with the extension of the time required for the application to annul the marriage of adults, included in the draft law aimed at combating forced or convenience marriage or partnerships.

27. The Act concerning equal treatment for men and women of 13 May 2008 transposes into Luxembourg law Directive 2002/73/EC of the European Parliament and of the Council of 23 September 2002 amending Council Directive 76/207/EC on implementation of the principle of equal treatment for men and women as regards access to employment, vocational training and promotion, and working conditions.<sup>6</sup>

28. On 24 April 2008, the Ministry for Equal Opportunity on the occasion of an international colloquy launched an awareness campaign on prostitution, based on street posters carrying the slogan: “If you hire a prostitute you are financing human trafficking”. The aim of the campaign is to combat the trivialization of prostitution.

29. On 27 June 2008, the Ministry submitted the report of the Committee on Cooperation between professionals in the field of combating violence in 2007 to the Government Council. In the course of 2007, the police of the Grand Duchy intervened 435 times under the Act of 8 September 2003 on domestic violence, and 214 deportations were authorized.

## **E. Combating human trafficking**

30. Human trafficking is a grave violation of fundamental rights which the Government wants to combat through a multidisciplinary approach, as advocated by the international and regional organizations (United Nations, European Union, Organisation for Security and Cooperation in Europe, Council of Europe), using legislation, projects and awareness campaigns.

31. In terms of legislation, three initiatives are worth mentioning:

(a) A bill prepared by the Ministry of Justice with the aim of approving or even implementing the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime (2000), the Council of Europe Convention on Action against Trafficking in Human Beings (2005), the European Commission Framework Decision on combating trafficking in human beings (2002);

(b) A bill prepared by the Ministry for Equal Opportunity (tabled on 22 April 2008), which extends measures to protect the victims of trafficking by giving a formal framework to the work of caring for and monitoring victims; and

(c) A new Immigration Act, voted in July 2008, which includes, apart from a complete reform of the legislation relating to foreigners, provisions on the victims of human trafficking, transposing into Luxembourg law the European Council Directive of 29 April 2004 on the residence permit issued to third-country nationals, who are victims of human trafficking or who have been the subject of an action to facilitate illegal immigration, and who cooperate with the competent authorities.

32. These three legislative initiatives reflect the Government's determination to coordinate the fight against human trafficking by focusing on the victims and the victims' protection. They include criminal clauses, social measures and measures concerning the victims' stay in Luxembourg.

33. With regard to training in this area, the new legislation, once it is finally in place, will make it possible to improve the information and training received by all the players and authorities involved, namely the police, customs and immigration, the judiciary and the social services, on the assumption that such training is crucial for combating human trafficking effectively, especially where the judicial authorities are concerned.

34. An inter-ministerial committee will take over the coordination of all the efforts made in the field and will ensure that the anti-human trafficking policy is consistently implemented.

35. Another bill is currently being prepared to approve the Optional Protocol to the United Nations Convention on the Rights of the Child on the sale of children, child prostitution and child pornography, and the Council of Europe Convention on the Protection of Children against Sexual Exploitation and Sexual Abuse.

36. Generally speaking, sexual exploitation - whether related to human trafficking or to prostitution - is increasingly becoming a topic of public debate in Luxembourg. The current discussion about whether to prosecute those using the services of a victim of human trafficking or prostitution reflects a growing awareness on the part of the public that sexual exploitation, whether willing or not, is unacceptable in a society founded on respect for fundamental rights.

## F. Rights of the child

37. The Act of 25 July 2002 instituted the Luxembourg Committee on the Rights of the Child, known as the "Ombuds-Comté fir d'Rechter vum Kand" (ORK), an independent and neutral committee responsible for implementing and promoting the Convention on the Rights of the Child ratified by Luxembourg in 1993.

### 1. Planned measures to assist children in distress

#### (a) Implementation of Draft Law No. 5754 on assistance for children

38. This deals in the first place with educational, family, psychosocial and therapeutic services developed to assist children and their families. The priority objectives include the opening of a national children's bureau, access for all children to the required assistance, promoting the coordination of assistance measures and services, and the collection of data.

#### (b) Development and diversification of aid and assistance services according to the real needs of children in distress

39. The aim is to develop and diversify social aid measures for children, so as to ensure that the supply of assistance is sufficient to meet demand and that a range of services is available offering varying degrees of protection, from family help to the judicial placing of minors in a host family or an institution.

## **2. Security Unit (UNISEC)**

40. The Security Unit, which is intended for 12 minors, should be brought into service in the spring of 2011. The admission of a minor, whether boy or girl, to the Security Unit must be subject to a formal decision by the judicial authorities. The purpose of the Unit is first of all to preserve and protect, in order to prevent the youngsters from escaping and to preserve them from the temptations of drug consumption and to avoid them falling into delinquency and heavy criminality.

## **3. Parental assistance measures**

41. Considerable efforts have been made to create and extend childcare facilities without accommodation, especially through the provision of halfway houses (*maisons relais*). Thanks to the allocation of more funds, it has been possible to open new facilities and to extend existing ones. The newly adopted Act of 30 November 2007 regulating the activity of parental aid takes account of socio-economic developments that have occurred in recent decades that have affected childcare arrangements.

### **(a) Creation of a national parental assistance agency**

42. The Ministry of Family Affairs and Social Integration has instituted a national care service, the “Dageselteren Agency”, which offers administrative support and educational advice to parental helpers.

### **(b) Cooperation in the area of parental assistance**

43. The Ministry of Family Affairs and Social Integration supports cooperation projects between the *maisons relais* and approved parental helpers in order to ensure greater flexibility of opening hours and a better quality of educational assistance.

### **(c) Family law and parental authority**

44. The question of parental authority is covered in the Civil Code, in particular in Book I, Title IX, of the Code.

45. The amended Protection of Young People Act of 10 August 1992 is worth mentioning, as it provides for the transfer of certain attributes of parental authority to the establishment where a minor has been placed following a definitive placement order by a juvenile court. This transfer should not be confused with the suspension of parental authority referred to in articles 387-9 ff. of the Civil Code.

46. It is worth noting that a draft law was tabled by the Government in 2004 to amend the above-mentioned law of 10 August 1992, with a view to taking better account of the interests of the child. As an example, once the draft law is adopted, it will be possible in the sort of placement described above to transfer the attributes of parental authority back to the parents if the youngster is granted leave by the juvenile judge. The new law also proposes shorter revision times regarding the measures taken under the 1992 Act and makes it a general obligation for the juvenile judge to appoint a counsel for a young person who has none.

47. Under the present rules of the Civil Code, the attribution of parental authority varies according to the matrimonial situation of the parents, that is, according to whether the child was born in or out of wedlock. In order to introduce greater equality between father and mother for the exercise of parental rights, the Government tabled a draft law in April 2008 instituting the principle

of joint parental responsibility of the father and mother over a minor offspring, which will apply to all parents, whether they are married or unmarried, living as partners, separated or divorced, and hence to all children, whether born in or out of wedlock, save in exceptional cases where an alternative solution would be preferable in the best interest of the child.

48. The draft also aims to institutionalize a system of mediation in family law, and to confirm a child's right to maintain links with both parents once they are separated.

49. The draft further establishes the right of children to express their views in any dispute that concerns them.

50. Another draft law, tabled in March 2008, in fact aims to make this right of children to be heard in any proceedings that concern them generally more effective and introduces an independent right for minors to obtain legal assistance in court proceedings, irrespective of the financial situation of the parents.

51. While the Civil Code still draws a distinction between legitimate and natural children, it states clearly that natural children enjoy the same rights and are subject to the same duties as legitimate children.

52. The Government is currently considering undertaking a reform of the law on filiation, in order to implement the principle of equality between all children in all its aspects and thus put an end to the discrepancy observed between the affirmation of the principle and the remaining differences of treatment, especially where the use of terminology is concerned. It may be noted that under an Act of 23 December 2005 the difference of treatment between fathers and mothers with regard to naming a natural offspring has already been eliminated.

53. It should be recalled that persons abandoned at birth by their mothers in a procedure of anonymous childbirth are not given any legal means in Luxembourg of finding out the identity of their biological mother or father, which may raise some questions regarding the right to respect for privacy and family life.

54. In the Act of 9 July 2004 on the legal effects of certain partnerships, Luxembourg has offered persons, of the same sex or not, wishing to live together the possibility of declaring a partnership with the civil status officer, and has established a legal framework for the property, tax and social security issues that arise with that type of partnership. The Act will be supplemented with a draft law, tabled by the Government in July 2008, which is aimed at offering more legal security and transparency to the partners, to their children and to third parties, and at securing recognition in Luxembourg for partnerships validly declared and concluded abroad through registration in the civil registry.

55. While the law does not prevent simple adoption by a person belonging to a partnership, full adoption is open only to spouses who are not judicially separated.

#### **4. Adoption measures**

56. In the Act of 14 April 2002, the Grand Duchy of Luxembourg ratified the Hague Convention of 29 May 1993 on Protection of Children and Cooperation in respect of Intercountry Adoption.

57. The Adoption Resource Centre, which opened in August 2007, was set up on the basis of the experience and work with adoptive parents and adopted children, with the aim of providing both with training, guidance and support.

## **5. Combating dangers arising from the use of new media**

58. The LUSI and LISA projects for creating awareness of the dangers arising from the use of the Internet and mobile phones are jointly funded by the European Union and by several Luxembourg ministerial departments.

59. Several ministries are currently engaged in a project to create synergies and a monitoring programme based on acquired experience and initiatives launched by the computer security unit of the Ministry of the Economy and Foreign Trade.

## **G. Rights of persons with disabilities**

60. The Grand Duchy of Luxembourg has signed the United Nations Convention on the Rights of Persons with Disabilities and the Optional Protocol dated 30 March 2007. Domestic legislation is currently being analysed (screening procedure) with a view to incorporating the Convention as efficiently as possible in Luxembourg law.

61. The legislation adopted in the last few years deal with two main aspects: the definition of new personal rights and the introduction of rules for facilitating accessibility.

62. The Act of 19 June 1998 on the introduction of dependent persons' insurance added a new branch of compulsory insurance within the Luxembourg social security system. All insured persons in a condition of irreversible dependence are entitled to assistance and care benefits, such as help with basic daily requirements, support activities and certain other benefits, such as products required for assistance and technical aids.

63. The Act of 29 September 2003 on persons with disabilities gives such persons the right to an income. The Act considers two cases, that of workers with disabilities, who are entitled to a guaranteed minimum wage, and that of persons with serious disabilities, who are entitled to a social income.

64. The Act of 29 March 2001 on the accessibility of public premises is intended to ensure access to public premises for all citizens, and in particular those with permanently or temporarily reduced mobility, by introducing measures to adapt and improve the physical and social environment. On 1 June 2008, the Chamber of Deputies adopted a law establishing a right of access to public premises for persons with disabilities accompanied by a guide dog.

## **H. Sound administration of justice**

65. In 2006, the Ministry of Justice convened a National Conference of Justice, to be attended by judges, registrars, barristers and senior officials, with the aim of surveying all the problems inherent in the Luxembourg judicial system and proposing solutions. Several working groups focused on problems related to the status of judges, to the administrative and financial organization of the judicial authorities, to communication and to civil and criminal proceedings. Their intermediate reports were submitted to the Minister of Justice in 2007 and 2008.

66. The conference also discussed the possibility of setting up a National Council of the Magistrature, as proposed by the Mediator, but differences of opinion emerged regarding the scope of the council's powers and composition.

67. In order to tackle the problem of excessive delays in the system, two multi-year programmes were instituted to recruit judges in 2001 and 2005, so as gradually to increase the number of judges and prosecutors in the District Court of Luxembourg. An Act of 12 August 2003 increased the number of investigating judges in the District Court, so that cases could be divided among investigating judges according to specialization. Lastly, an Act of 6 March 2006 helped to alleviate the workload of investigating judges by introducing a simplified procedure of investigation that allows the Prosecutor's Office to initiate certain investigation procedures without the need for a preliminary inquiry.

68. At the same time, the personnel of the Judicial Police Services has been substantially increased. The service was reorganized at the end of 2003 with the introduction of regular coordination meetings between the police and judicial police authorities, in order to improve the efficiency of the latter and to reduce the time needed to complete inquiries.

69. The new Cité Judiciaire (Courts of Justice), which begins operating in Luxembourg City at the end of the summer of 2008, has been provided with modern infrastructure and equipment to facilitate the work of the justice system.

70. Lastly the Government is hoping that a draft law tabled in May 2003, intended to strengthen the rights of the victims of criminal offences, may be passed during the current legislature.

## **Prisons**

71. There are at present only two prisons in Luxembourg: Givenich, which has a capacity of around 100 beds and operates on a semi-open system, and Luxembourg Prison (the "CPL"), which has a capacity of 600 beds and constitutes the only closed prison in Luxembourg. The CPL also encloses a detention centre for foreigners in an irregular situation for 35 persons and a disciplinary section for minors.

72. Like other European prisons, the CPL, which has already been extended with the addition of a new open prison in 2002, is threatened with overcrowding. The Government has decided to alleviate the situation by building a new prison in the south of the country for not more than 400 pretrial detainees.

73. As far as health care is concerned, the prison authorities have passed agreements with public hospitals. The Luxembourg Hospital Centre is responsible for providing somatic health care, while the Neuro-psychiatric Hospital Centre of Ettelbruck deals with the psychiatric problems of detainees. All the costs of health care are met by the State.

74. In accordance with the prison system's aim of achieving the rehabilitation and social regrading of prisoners, a regular programme for the care of drug users was introduced recently in the prisons of Schrassig and Givenich, in order to prevent drug use in all its forms in prisons through joint and individual efforts to assist detainees.

75. As the only security prison in Luxembourg, the CPL holds a very mixed population of inmates. The prevailing promiscuity between persons of different nationalities and different backgrounds does, however, give rise to tensions.

76. In order to ensure that detainees receive adequate treatment and to forestall ill-treatment, the prison authorities each year draw up a continuing training programme for its whole staff, which includes courses on moral standards, racism, violence in society, basic first aid action, the settlement of conflicts by mediation, and behavioural and speech techniques in the event of conflict and suicide prevention.

77. The solitary confinement system, which has been criticized in the past, is still a necessary device which the prison authorities have to be able to use in the case of particularly serious breaches of discipline, such as hostage taking, serious violence or attempted escape. Abolishing the system would deprive the prison authorities of any effective means of maintaining order and security for the benefit of the staff and detainees. It is, however, subject to rules, which allow detainees to lodge an appeal with the prison commission. Whatever action is taken by the commission is also subject to the supervision of administrative tribunals.

78. Conditions of detention are in fact subject to supervisory mechanisms. The operation of prisons is placed under the supervision of the General State Prosecutor or his specially appointed representative, who are responsible for monitoring and personalizing the enforcement of sentences and who regularly visit the prisons. In addition, the members of the Chamber of Deputies and the Mediator have a right of access to prisons. In 2008 the Mediator submitted a recommendation to the Government advocating a redistribution of tasks related to the enforcement of sentences involving deprivation of liberty. This recommendation is currently being considered by the Government.

79. The draft law approving the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman and Degrading Treatment or Punishment, tabled before the Chamber of Deputies on 13 March 2008, furthermore institutes a general mechanism of external supervision of places of detention, for which the Mediator is responsible.

80. This mechanism also applies to places of detention for minors.

## **I. Right of asylum and international protection**

81. The Act of 5 May 2006 on the right of asylum and additional forms of protection introduced substantial changes in the right of asylum practised in Luxembourg. In particular the Act introduced a new status called “subsidiary protection”. This status is intended to protect persons for whom there are serious, well-founded reasons to believe that they are exposed to grave physical danger, such as the death penalty or execution, torture or inhuman or degrading treatment or punishment inflicted in their country of origin, or serious and personal threats to the life or person of a civilian as a result of blind violence in the event of internal or international conflict. In accordance with UNHCR doctrine, non-State persecution has now been added to the list.

82. The new law also allows the possibility for applicants for international protection to work, under certain specific conditions. Despite criticism to the effect that this measure would never be applied in practice, 367 temporary work permits have been issued in this way, amounting to 76 per cent of acceptances.

83. Applicants for international protection must also be informed in writing, in a language that they may reasonably be expected to understand, of the content of the procedure of international protection, and of their rights and obligations during the procedure. The Ministry of Foreign Affairs and Immigration has published a very detailed brochure in 12 different languages for the information of international protection applicants.

84. Under the new law, a guardian is automatically appointed to assist unaccompanied minors with application formalities.

85. The new legislation has considerably shortened the time needed to process asylum applications, while ensuring better scrutiny. Since 2004, the proportion of acceptances of refugee status has been steadily increasing (2004: 5 per cent; 2005: 12 per cent; 2006: 7 per cent; 2007: 37 per cent).

86. The Act of 5 May 2006 gives a list of safe countries of origin, which was drawn up under a Grand Ducal regulation of 21 December 2007. While the list has been criticized, the Government wishes to point out that the applications of persons whose countries of origin appear on the list are not automatically rejected, since applications are always considered on a case-by-case basis. Nevertheless, the application will be processed according to the fast track procedure, although this faster procedure is in practice little used (about 5 per cent of all decisions).

87. Between 2004 and 2007, some 777 rejected asylum-seekers succeeded in obtaining a residence permit “on humanitarian grounds”. These are mostly people who have been living in Luxembourg in an irregular situation for many years.

## **1. The social rights of refugees**

88. It is not easy to ascertain the situation of persons and families who have obtained refugee status or subsidiary protection status in Luxembourg, since they are not listed in the statistics of the public administration under a separate “refugee” category. They are classified rather according to their country of origin and so are not easy to identify.

89. However, all recognized refugees, as soon as they are granted refugee status in Luxembourg, are entitled to the benefits of the social aid system known as the “guaranteed minimum income” (*revenu minimum garanti*, or *RMG*), with the exception of persons under the age of 25 who have no dependent children.

90. Beneficiaries receive various forms of financial and material assistance under the system.

91. Refugees are also entitled to family benefits for their children (monthly family allowance, maternity benefit, schooling allowance, disabled child supplementary allowance) as well as specific study benefits, like all residents and workers in Luxembourg.

92. Adults and children suffering from severe disabilities or sicknesses receive aids in cash or in kind under the dependence-insurance scheme, which is part of compulsory sickness insurance.

## **2. The social rights of international protection applicants**

93. All international protection applicants who have no income of their own are entitled to a monthly social benefit for the whole duration of the necessary administrative procedures to determine whether they qualify as refugees, including the time needed to appeal before the Administrative Court and Court of Appeal.<sup>7</sup>

94. Social assistance to international protection applicants includes a number of measures and benefits in support of households. These depend on the composition of a household and the age and state of health of its members. In addition to material and financial aid, all international protection

applicants are entitled to the support of a social health worker from the Government Commission for Foreigners (CGE) and personal assistance where necessary. The CGE, which is answerable to the Minister for the Family and Integration, is in sole charge of this social assistance, which includes:

- (a) A monthly financial grant;
- (b) Medical assistance;
- (c) Public transport vouchers;
- (d) Occasional grants where necessary;
- (e) The availability of lodgings for the whole duration of the procedure and even beyond.

95. Special efforts are made to provide schooling for the children of international protection applicants, offering coordination in the Ministry of Education, the contribution of intercultural mediators and financial subsidies to the communes, which are proportional to the number of children of international protection applicants attending their schools.

96. Rejected international protection applicants who volunteer to return to their countries of origin are offered the following assistance by the public administration, via the CGE:

- (a) Advice regarding formalities;
- (b) Administrative assistance to obtain travel papers;
- (c) Booking and purchase of plane or train tickets;
- (d) Payment of a financial resettlement grant (paid at checking-in time) and luggage allowance;
- (e) Transport to the airport on the day of departure;
- (f) Assistance at checking-in time.

## **J. Immigration**

97. In the area of immigration, Luxembourg has just adopted new legislation, which was approved by the Chamber of Deputies on 9 July 2008, abrogating the former amended law dating back to 1972 concerning the entry and stay of foreigners.

98. The purpose of the new law is not only to transpose six European directives into domestic law but also to introduce a modern immigration policy that will allow Luxembourg to remain economically competitive while maintaining its tradition as a country of immigration. One of the great innovations of the law is to abolish the complex system of work permits and to replace it with a single card that serves as both residence and work permit. Apart from salaried workers, other categories of entry permits will be issued, such as non-salaried (independent) workers, sportsmen and women, students, trainees or volunteers, researchers, relatives, and even a category for private or special applicants. The latter category includes entry permits for persons receiving medical treatment and the victims of human trafficking.

99. The new law contains a number of provisions on family reunification. Thus any third country national, including international protection beneficiaries, is entitled to bring in his family so long as he is residing in the country legally and can offer suitable conditions for the family's resettlement.

100. It is also stipulated that any person suffering from a health problem requiring medical treatment which is not available in the person's country of origin cannot be expelled from Luxembourg.

101. In order to forestall criticism regarding the lack of transparency in cases of deportation, particularly those involving forcible removal, a Grand Ducal regulation will determine the precise conditions in which deportations must take place. The Act on the free movement of persons and immigration stipulated that a Grand Ducal regulation will lay down a set of rules of good conduct that must be applied by officers responsible for implementing deportation measures.

102. According to this Grand Ducal regulation:

- (a) The deportation operation may be suspended if its continuation is likely to endanger the security of the person being expelled, other passengers, crew members, members of the escort or observers;
- (b) The deportation cannot take place if the person is medically unfit to travel;
- (c) The principle of family unity must prevail, unless one member of the family voluntarily withdraws from the deportation measure;
- (d) The special needs of vulnerable persons, especially children and elderly persons, must be duly taken into account;
- (e) Members of the escort must not bear arms when the deportation takes place by air; they must wear civilian clothing and no hoods are allowed;
- (f) A report must be handed in on the deportation operation, possibly including the comments of a neutral observer;
- (g) Members of the escort and observers must receive special training.

103. With regard to the presence of accompanying persons and observers in deportation operations, the regulation specifies that the minister responsible for immigration matters may decide to add a representative of the ministry or a medical assistant to the escort whenever the deportation takes place on a commercial flight or an overland route.

104. If the deportation is conducted on a charter flight, a representative of the minister and medical assistance must accompany the flight. In addition, an impartial, neutral and independent observer from an international organization or association, active in the field of international humanitarian law, may also attend the deportation. According to the Grand Ducal regulation, an agreement must be signed with the organizations concerned giving details of the observer's mandate. At the moment, observation tasks are carried out by the Luxembourg Red Cross.

## **K. Administrative detention of foreigners in an irregular situation**

105. Luxembourg has been much criticized in recent years owing to the lack of separate closed premises for foreigners in an irregular situation. At present, persons in an irregular situation are held in a special wing of the main prison. But even though the persons detained there have no physical contact with ordinary prisoners and pretrial detainees, the Government has decided to put an end to the situation, as recognized in the government statement of 4 August 2004.

106. The construction of a detention centre separate from the main prison was authorized under the Act of 24 August 2007. The new centre is intended to provide suitable premises for the accommodation of persons under a legal committal order in humane conditions, subject to full respect for their fundamental rights and dignity.

107. This has been the Government's response to repeated criticism coming from the Office of the United Nations High Commissioner for Refugees (UNHCR) and the Council of Europe's European Commission against Racism and Intolerance (ECRI), as well as national administrative jurisprudence.

108. With regard to the current situation in the wing reserved for persons detained in the main prison, the criticism has focused on several features.

109. As far as the excessive number of detainees is concerned, the Government has decided that the number of detainees should not exceed 35, compared with 60 only two years ago.

110. With regard to visiting rights for detainees, the Government has changed existing practice in response to the complaints of NGOs, so that now visiting rights may be exercised from the first day of detention, with visits allowed on working days and every other Sunday. The Government has also decided to allow visits by NGO members, and duty rosters can be organized by approved persons from associations belonging to the Collectif des Réfugiés (Refugee Collective). The operating rules of the centre, including those applying to the rights and obligations of detainees, will be set out in a draft law due for adoption in the near future.

## **L. Combating terrorism**

111. Since Luxembourg has not so far been exposed to direct terrorist attacks on its territory, the provisions of the Criminal Code criminalizing acts of terrorism, the financing of terrorism, terrorist groups and certain other special activities are relatively recent, having been introduced in 2003, when Luxembourg implemented the International Convention for the Suppression of the Financing of Terrorism of 10 January 2000 and the European Council Framework Decision 2002/475/JHA on combating terrorism.

112. In order to preserve a balance between respect for human rights and effective measures to combat terrorism proportionate to the magnitude of the problem in Luxembourg, the legislators took care to avoid introducing any special procedures or courts outside the ordinary law.

113. Thus ordinary criminal proceedings are used for inquiries and investigations conducted in cases of terrorism, except that such cases are dealt with only by the State Prosecutor, the investigating judge and the trial courts of the Luxembourg circumscription.<sup>8</sup>

## **M. Combating all forms of discrimination and related intolerance**

### **1. The Centre for Equal Treatment**

114. The Centre for Equal Treatment was set up under the Act of 28 November 2006.<sup>9</sup> It operates independently with the aim of promoting, analysing and monitoring equal treatment between all persons without discrimination on grounds of race, ethnic origin, sex, religion or opinion, disability or age.

115. In fulfilling its mandate, the Centre may:

- (a) Publish reports, express opinions and recommendations and undertake studies on all matters related to discrimination;
- (b) Produce and provide whatever information and documentation may serve the purposes of its mission;
- (c) Bring aid to persons who consider themselves to be the victims of discrimination by providing them with advice and guidance designed to inform victims regarding their individual rights, legislation, jurisprudence and available remedies.

### **2. Education in democracy, citizenship and human rights**

116. The struggle against all forms of discrimination and intolerance must begin in the very early years of schooling. In the Luxembourg education system, all children of compulsory school age<sup>10</sup> must be registered with a Luxembourg school, irrespective of the status of the parents. No child will be turned back, regardless of race, sex, language or religion.

117. Until the end of cycle II, knowledge of human rights is part of the general repertory of social, cognitive and emotional skills. Until the end of cycle III, human rights skills take the form mainly of an awareness of human dignity, self-respect and respect for others, and a sense of responsibility and opening to the world. Children are made aware of the values needed for life in common, such as non-violence, cooperation, respect, acceptance, solidarity, empathy, justice, as well as a sense of belonging to a group (family, school, friends, national and human community). Until the end of cycle IV, human rights skills are acquired to coincide with a period of growth (early puberty). Human rights can serve to provide additional guidance in the understanding of personal values and a criterion for a life in common based on liberty, justice, solidarity and peace.

118. As part of the initial training given to future post-primary schoolteachers, modules are given at the University of Luxembourg on education for democratic citizenship and human rights. The Ministry of Education each year offers students undergoing continuing teacher training the possibility of following courses in the development of social skills.<sup>11</sup>

119. With education in democratic citizenship, human rights and intercultural and inter-religious dialogue gaining ground in school programmes, teachers will have the opportunity to broaden into multiple and independent fields, such as civic education, intercultural education, education for peace and non-violence, education for sustainable development and education in the media, in order to consolidate a democratic culture in the school system. Within the framework of the European Year of Intercultural Dialogue 2008, Luxembourg has launched a number of projects both within the country and as part of its effort to promote cultural diversity and intercultural dialogue within the European Union and among its member States.

### **3. Integration of schoolchildren speaking foreign languages**

120. To help schoolchildren newly arrived in Luxembourg, the Ministry has set up the Cellule d'accueil scolaire pour élèves nouveaux arrivants (CASNA) (Educational reception unit for newly arrived pupils). This unit provides information in different languages concerning the Luxembourg school system and the assistance available for children speaking foreign languages (with entry courses or classes teaching the main languages of the school system, namely French, German and Letzeburgish, and special language classes in post-primary education). All new arrivals aged between 12 and 18 must pass through CASNA in order to be integrated in a class or vocation training course suited to their profile.<sup>12</sup>

121. In order to enable foreign language children to remain in contact with their mother tongue while learning Letzeburgish, French and German, a few courses of the Luxembourg school programme are now given in Portuguese and Italian during the primary school programme. The teachers of those courses are recruited and paid for by the respective embassies.

122. In order to facilitate the educational integration of children of preschool age, assistants of Portuguese mother tongue may assist preschool teachers for a few hours a week. This helps the children feel more secure, overcome some of their problems of understanding and integrate more rapidly. Moreover, a sound knowledge of the mother tongue helps in later schooling, especially with learning foreign languages.

123. With regard to informing foreign parents, apart from information meetings held in French (replacing Letzeburgish for native parents), special information meetings are held for Portuguese, Cape Verdean and Chinese parents with interpretation into their respective languages. A great number of information documents are translated into the main foreign languages.

124. In order to facilitate dialogue between foreign language-speaking parents, school authorities, teachers and pupils, the Ministry of Education has recruited intercultural mediators speaking Albanian, Creole (Cape Verdean), Chinese, Italian, Portuguese, Serbo-Croat and Russian, in addition to languages commonly used in Luxembourg. These help mainly at information meetings and discussions between teachers, parents and pupils by providing translation and intercultural mediation.

### **4. Awareness campaigns**

125. Luxembourg is committed to combating all forms of discrimination in the meaning of article 13 of the Amsterdam Treaty. Since 2002 it has been conducting a national campaign of awareness and information in the fight against discrimination with the support of the former Community Action Programme to combat discrimination and the current PROGRESS (Programme for Employment and Social Solidarity). The national campaign, which was launched in 2002, while pursuing the objectives of previous campaigns and building up on already acquired knowledge, focused initially on dialogue and awareness in the workplace. The campaign conducted in 2005-2006 sought an integrated approach to diversity and a broader opening to other fields. As in previous campaigns, the chief aim of this campaign was to create awareness of all the grounds for discrimination dealt with in European directives.

126. The current campaign covers a range of areas, such as housing, data gathering and health. A public leaflet will shortly be distributed to all households in the Grand Duchy to explain the content of the new law on equal treatment.<sup>13</sup>

127. An awareness and training effort is also made with lawyers and legal practitioners as part of the national campaign. For instance, in October 2006 an equal treatment course was organized specifically for the jurists of the Grand Duchy of Luxembourg in cooperation with the Academy of European Law of Trier.

128. Within the framework of the 2007 European Year of Equal Opportunities for All, Luxembourg's National Strategy identified five priority areas: the arts, the working environment, youth,<sup>14</sup> legal practitioners and the creation of expertise. A number of projects were carried out during the year and the awareness and information work in these areas will be continued in the future.

129. Information and awareness campaigns are also being conducted with the support of the European Union. Within the framework of the draft law on the reception and integration of foreigners, a five-year national plan of action is to be put forward on integration and the fight against discrimination.

### **5. Preventing discrimination in the labour market, promoting diversity and preventing discrimination in employment**

130. As part of the European Year of Equal Opportunities for All, the Union of Luxembourg Enterprises (Union des Entreprises Luxembourgeoises, UEL) set up the National Institute for the Sustainable Development and Social Responsibility of Enterprises. The Government Commission for Foreigners, with the financial support of the European Union, is calling for the introduction of a recognized sub-label of equal professional opportunities alongside the socially responsible enterprise label of approval.

131. Another initiative worth noting in this field is that of the Luxembourg Union of Temporary Work Enterprises, which took the opportunity of the European Year of Equal Opportunities for All to add a Diversity Charter to its code of conduct.<sup>15</sup>

### **N. Right to an adequate standard of living**

132. For the Grand Duchy of Luxembourg, social security is looked upon as an essential mechanism for ensuring stability and a reasonable standard of living in the event of social upheaval, as well as a tool for poverty prevention and eradication.

133. The right to social security depends primarily on salaried or independent professional activity. In some cases, rights may be based on residence (such as family allowances). If necessary, voluntary insurance schemes can serve as supplements or replacements.

134. The Grand Duchy of Luxembourg has ratified the ILO Social Security (Minimum Standards) Convention, 1952 (No. 102) and the European Code of Social Security of the Council of Europe.

135. Since work affords protection from poverty, Luxembourg tackles the worst risks through an active employment policy, in which combating unemployment is an absolute priority, and through its family policy, which aims to give parents easier access to jobs and to keep them employed with the help of better support services.

136. Luxembourg combines these policies with direct financial subsidies, such as the child supplement which took effect on 1 January 2008.

137. Improving the material situation of low-income households is one of the aims of the new measures announced by the Prime Minister of Luxembourg in his State of the Nation address on 22 May 2008. This includes:

- (a) Increasing the minimum social wage;
- (b) Changing the compensatory reduction for workers into a tax credit of €300;
- (c) Changing the single-parent reduction into a tax credit;
- (d) Introducing “service” vouchers for families with children;
- (e) Introducing an inflation allowance to replace the heating allowance (at twice the amount).

138. On 22 January 2008, the Government also tabled a bill before the Chamber of Deputies to organize social aid. In order to allow all legal residents to live a life compatible with human dignity, this bill establishes an effective right to social aid at communal level. This aid is intended to provide basic necessities in terms of medical treatment, housing, food, clothing, mobility, water for human consumption and domestic energy, and it can be material, financial or social.

## **O. Right to health**

139. Satisfactory medical coverage is ensured by a sufficient number of health professionals (physicians and other medical personnel) and hospitals. Thanks to public subsidies the latter are well supplied with infrastructure and equipment.

140. Access to this supply of medical and hospital services is facilitated by a very generous care scheme resting on the social security system. Luxembourg’s health system aims to be universal and to offer equal access and treatment in a spirit of solidarity, and to remain flexible with regard to the latest social and medical developments.

### **Care for persons suffering from mental disorders and care for young people with behavioural problems**

141. Since 2005, in order to prevent illnesses from becoming chronic and any stigmatization of persons affected by mental disorders, Luxembourg has regionalized psychiatric treatment, including the provision of psychiatric care in closed establishments, both in practice and in its legislation.<sup>16</sup> This type of care is now available in general hospitals equipped with a psychiatric unit. Patients can no longer be placed under restraint in a specialized establishment, but must be admitted to a general hospital. It is only in cases where long-term psychiatric treatment is necessary that patients are placed in a specialized establishment. This regionalization policy has been supported by an increase in the capacity of day centres.

142. Treatment under constraint and measures of seclusion and restraint, though accepted by the international organizations, are used in the last resort in the event of the patient undergoing a severe crisis. A draft law concerning hospitalization without consent of persons suffering from

mental disorders is intended to provide a legal framework for measures of seclusion and restraint, in line with the provisions of article 27 on measures of seclusion and restraint contained in Recommendation (2004) 10 of the Council of Europe concerning the protection of the human rights and dignity of persons with mental disorders.

143. The fundamental right of persons suffering from mental disorders to appeal before a court of law against their placement must be upheld. In order to guarantee that right, Luxembourg's legislation provides persons with mental disorders with a series of monitoring mechanisms and legal guarantees. Thus patients may have recourse to a court of law at any time. An Ombudsman (or mediator) has been specially instituted to ensure that the right is enforced in practice. This official assists and advises mental patients on their rights and available legal remedies.

144. In addition, a supervisory committee ensures that the rules are properly applied in care establishments by receiving patients' complaints and grievances. It is worth noting that according to the above-mentioned draft law, all placement decisions must be taken by a court. At present, under the current legislation, placement decisions are still taken by the director of the hospital concerned or by the physician in charge of the psychiatric service. Even though the decision procedure is already subject to adequate guarantees, placement orders issued by a court will offer even better guarantees against arbitrary confinement.

## **2. Preventive medicine**

145. The right to health implies that the State must provide suitable medical and social conditions to ensure that all persons enjoy the best health possible on an equal footing, hence the idea of preventive medicine programmes. By making preventive medicine facilities accessible to all citizens, the State of Luxembourg is attempting to avoid and curb the appearance and spread of disease among the population and thus ensure a high standard of health. To achieve this, various preventive medicine facilities are provided both by law and in the form of supplementary programmes which are not covered by legislation.<sup>17</sup>

## **P. Access to affordable and decent housing**

146. In view of sharply rising housing prices in Luxembourg in recent years, the Government has been conducting an active housing policy in close cooperation with the ministries concerned and public building firms. In March 2007 it tabled an important draft law (No. 5696) to promote housing, setting up a "housing pact" with the communes and launching an active housing control policy. This bill, which sets out the instruments and means needed to ensure an effective reaction in the event of a crisis in the housing market and to meet urgent demands for (social) housing, was adopted on first reading by the Chamber of Deputies on 11 June 2008.

147. In the Grand Duchy of Luxembourg, where 40 per cent of the population are foreigners, the conditions of access to social housing and individual housing aids are the same for Luxembourg and foreign/immigrant households. New measures<sup>18</sup> have been taken in recent years to assist certain categories of persons (such as children, persons with disabilities, elderly persons and low-income households) or to encourage more social intermingling. State aids for the construction - by public builders - of low-cost housing estates, and especially of rented accommodation with controlled rents for disadvantaged households, have been revised upwards.

148. Work has started on revising the Constitution, with a view to inserting a clause making the State responsible for ensuring that everyone has access to decent housing.

*Notes*

<sup>1</sup> Conformément au paragraphe 15 b) de l'annexe à la résolution 5/1 du Conseil des droits de l'homme.

<sup>2</sup> Et qui s'inscrit dans le sillage du Concordat du 15 juillet 1801 entre Bonaparte et Pie VII.

<sup>3</sup> Notamment fixées dans une motion de la Chambre des députés du 18 juin 1998.

<sup>4</sup> Le Gouvernement a notamment invité le Conseil de Gouvernance de l'Université du Luxembourg:

(a) à présenter la situation actuelle en matière d'intégration de l'aspect du genre dans ses activités de formation et de recherche pour le 6<sup>e</sup> rapport sur la mise en œuvre de la Convention pour l'élimination de toutes les formes de discrimination à l'égard des femmes CEDAW;

(b) à intégrer la Convention CEDAW et le protocole additionnel dans son prochain contrat d'établissement pluriannuel entre l'Etat et l'Université du Luxembourg, notamment les curricula de formation en droit, des cours supplémentaires en droit et des formations en sciences sociales et éducatives.

<sup>5</sup> Parmi ces mesures:

(a) Un échange des bonnes pratiques, développées dans le cadre du plan, aura lieu le 28 octobre 2008 entre les membres des cellules de compétences en genre et des membres du Comité interministériel de l'égalité des femmes et des hommes. L'objectif est de documenter les bonnes pratiques développées et d'en assurer la transférabilité à d'autres ministères;

(b) Concernant la formation en genre du personnel de l'Etat et des communes, le Ministère de l'Egalité des chances, le Ministère de l'Intérieur et le Ministère de la Fonction publique et de la Réforme administrative font élaborer dans le cadre du programme européen PROGRESS un concept concernant l'intégration de la dimension du genre dans les formations initiales et continues, à l'intention des fonctionnaires d'Etat et des communes à mettre en œuvre par l'Institut national d'administration publique dans le cadre de son plan de formation pour 2010. Ce projet prévoit également l'élaboration d'outils et de matériel pédagogique et méthodologique à l'intention du personnel formateur. L'objectif est d'intégrer la dimension du genre dans les formations obligatoires pour les fonctionnaires de l'Etat et des communes;

(c) Une formation portant sur l'intégration du principe de l'égalité des femmes et des hommes dans la législation est prévue pour le 4<sup>e</sup> semestre 2008. Les fonctionnaires en charge de la préparation de textes législatifs constituent le public cible.

<sup>6</sup> En date du 9 juin 2008, le Ministère de l'Egalité des chances a organisé une conférence sur l'égalité salariale entre les femmes et les hommes. Furent présentés des mesures législatives contraignantes (loi suisse sur les marchés publics) et des exemples de bonnes pratiques, développés par des entreprises. L'objectif était de rappeler à l'audience (130 personnes) aussi bien la législation en vigueur, et de confirmer le droit à une égalité de rémunération entre les femmes et les hommes.

<sup>7</sup> Base légale: Loi du 5 mai 2006 relative au droit d'asile et à des formes complémentaires de protection; Règlement grand-ducal du 1<sup>er</sup> septembre 2006 fixant les conditions et les modalités d'octroi d'une aide sociale aux demandeurs de protection internationale.

<sup>8</sup> Il en résulte notamment que toutes les mesures coercitives - telles que l'arrestation de personnes, les perquisitions de domicile ou encore les saisies de biens - ne peuvent être effectuées sans le contrôle d'un juge et la personne concernée dispose de tous les droits prévus par le droit commun relatifs, notamment, à la communication avec son avocat, le respect du principe du contradictoire ou encore à l'accès au dossier répressif.

Le Luxembourg attache évidemment aussi une grande importance à l'aide à fournir aux victimes des actes de terrorisme, de sorte que la loi du 12 mars 1984 relative à l'indemnisation de certaines victimes de dommages corporels résultant d'une infraction leur est également applicable.

<sup>9</sup> Le Centre est composé d'un collège de cinq membres dont un président. Le mandat du président et des membres du Centre a une durée de cinq ans. Ils sont nommés par le Chef de l'Etat sur proposition de la Chambre des Députés en fonction de leur compétence dans le domaine de la promotion de l'égalité de traitement. Une fois par an, le Centre adresse au Gouvernement et à la Chambre des Députés un rapport général sur ses activités.

<sup>10</sup> La scolarité obligatoire comporte 11 années: deux années d'éducation préscolaire, six années d'enseignement primaire et trois années d'études post-primaire.

<sup>11</sup> L'actuel plan cadre de la branche « Formation morale et sociale » dans l'enseignement post-primaire, appelé «Philosophie pratique», est un programme visant à promouvoir une culture de la démocratie, de la paix, le développement d'une citoyenneté réflexive, critique, active, coopérative et responsable. L'éducation à la citoyenneté est à la fois une branche visant à cultiver les relations humaines dans une société démocratique, une matrice pour des activités reliant tous les partenaires scolaires et extrascolaires dans des pratiques de coopération, de participation et d'engagement, et enfin une entreprise multidisciplinaire concernant toutes les branches.

<sup>12</sup> Nombre de nouveaux arrivants âgés de 12-18 ans s'étant présentés pour leur orientation scolaire et la passation de tests de positionnement à la Cellule d'accueil scolaire pour élèves nouveaux arrivants (CASNA) du Ministère:

- (a) 1 septembre 2005 au 30 juin 2006: 358 élèves;
- (b) 1 juillet 2006 au 30 juin 2007: 417 élèves;
- (c) 1 juillet 2007 au 30 juin 2008: 478 élèves.

<sup>13</sup> Loi du 28 novembre 2006 - portant transposition de la directive 2000/43/CE du Conseil du 29 juin 2000 relative à la mise en œuvre du principe d'égalité de traitement entre les personnes sans distinction de race ou d'origine ethnique; transposition de la directive 2000/78/CE du Conseil du 27 novembre 2000 portant création d'un cadre général en faveur de l'égalité de traitement en matière d'emploi et de travail; modification du Code de travail et portant introduction dans le Livre II d'un nouveau titre V relatif à l'égalité de traitement en matière d'emploi et de travail; modification des articles 454 et 455 du Code pénal; modification de la loi du 12 septembre 2003 relative aux personnes handicapées.

<sup>14</sup> Suite au 10<sup>ème</sup> anniversaire de la campagne «Tous différents, tous égaux» (European Youth Campaign against Racism, Xenophobia, Anti-Semitism and Intolerance), une nouvelle campagne « Tous différents, tous égaux » a été lancée par le Conseil de l'Europe au printemps 2006. Elle s'adresse à tous les jeunes vivant au Luxembourg. Basée sur une approche participative et durable, la campagne aborde d'une façon dynamique le sujet des discriminations quotidiennes notamment celles fondées sur l'origine ethnique, le genre, le handicap, l'âge, la religion ou les convictions et l'orientation sexuelle. Conscient du rôle vital joué par les jeunes dans la construction de sociétés pacifiques, la campagne prône l'égalité des chances pour tous et elle met en évidence la richesse que nous pouvons puiser dans la diversité qui nous entoure. La campagne comprend un programme officiel «ON» et un programme «OFF». Le «ON» proposé par des institutions comme le Service national de la Jeunesse, la Conférence Générale de la Jeunesse luxembourgeoise ou le Commissariat du Gouvernement aux Etrangers, prévoit des symposiums, forums, concours et une semaine d'action. Mais l'essentiel de la campagne se passe en «OFF»: ce sont les nombreux projets des associations, maisons de jeunes et classes scolaires. La diversité des projets fait la richesse de la campagne. Le site «<http://tdte.jeunesse.lu>» regroupe les informations utiles autour de la campagne (agenda, actualités, galerie d'images, ...).

<sup>15</sup> Le texte entier de la Charte se trouve sur [http://www.uledi.lu/pdf/Charte\\_de\\_diversite.pdf](http://www.uledi.lu/pdf/Charte_de_diversite.pdf).

<sup>16</sup> En ce qui concerne le volet de la pédopsychiatrie et de la psychiatrie juvénile, il faut admettre que ce n'est que depuis la fin des années 90 que des services nationaux ont été créés dans des hôpitaux généraux. Or, beaucoup de progrès ont été faits pour mieux garantir les droits des enfants et des jeunes. Ainsi, une unité fermée a été créée au CHNP (établissement spécialisé en psychiatrie) fin 2006, afin d'offrir un traitement adapté aux jeunes atteints de troubles mentaux. Outre l'ouverture récente d'une unité de pédopsychiatrie dans la Clinique Pédiatrique du CHL, est également prévue la mise en service d'une entité ouverte permettant d'accueillir des jeunes en difficultés. Finalement, un concept de prise en charge de jeunes à risques atteints de troubles comportementaux a été élaboré et devra être concrétisé par le Centre de Recherche Public Santé.

<sup>17</sup> Par voie législative: la loi 20 juin 1977 a introduit un contrôle systématique des femmes enceintes et des enfants en bas âge. Ce texte prévoit une série d'examens médicaux tant sur la femme enceinte que sur le nouveau né, afin de détecter d'éventuelles complications et de permettre un traitement approprié. Ce catalogue de mesures a contribué à une diminution du taux de mortalité infantile pour 1 000 naissances de 4,9 en 1996 à 1,8 en 2007. Ces chiffres font du Luxembourg le pays avec le taux de mortalité infantile le plus bas dans toute l'Union Européenne. Le contrôle de l'état de santé des enfants en bas âge se poursuit avec des examens médicaux systématiques sur les enfants de 2 à 4 ans (loi du 15 mai 1984) et un programme de médecine scolaire (loi 2 décembre 1987) permettant un suivi médical des enfants du primaire et du post-primaire. Par voie non-législative: L'offre de médecine préventive non-législative se base sur trois axes principaux: l'éducation à la santé, le dépistage de maladies et des programmes conjoints de médecine préventive et des actions préventives coordonnées.

Tout programme de médecine préventive commence par l'éducation à la santé et la promotion de la santé afin de prévenir des morbidités et rallonger la vie. Les stratégies utilisées à cette fin se basent sur la communication avec la population à travers notamment l'organisation de campagnes d'information et de sensibilisation dans les médias tels

que la télévision, internet, la presse imprimée, des brochures, etc. De telles campagnes sont notamment organisées dans le domaine de l'alimentation saine et équilibrée, de la protection de la santé maternelle et infantile, du tabagisme, du SIDA, des risques liées à la consommation excessive d'alcool, etc.

Un autre volet de la médecine préventive est constitué par le dépistage et la détection précoce de maladies et d'infirmités. En dépistant des maladies à un stade débutant, les chances de guérison sont plus élevées et il sera souvent possible d'éviter des complications à travers un traitement adapté. Ainsi ont été institués des dépistages systématiques ou ciblés notamment pour les maladies ou infirmités suivantes : la tuberculose, l'HIV, les hépatites, diverses maladies infectieuses et transmissibles, divers types de cancers, les déficiences visuelles et auditives auprès des enfants en bas âge, etc.

Exemples de programmes conjoints de médecine préventive et actions préventives coordonnées:

(a) Programme de mammographie qui prévoit un dépistage systématique du cancer du sein à travers une offre gratuite de mammographies s'adressant aux femmes âgées de 50-68 ans;

(b) Programme de vaccination contre la grippe qui prévoit la vaccination annuelle gratuite contre la grippe saisonnière, offerte aux personnes à risque et aux personnes âgées de 65 ans ou plus;

(c) Programme de sevrage tabagique qui prévoit une prise en charge thérapeutique par suivi médico-psychosocial et traitement par substitution nicotinique et médicamenteuse spécifique de tous les assurés qui en font demande;

(d) Programme de dépistage prénatal des maladies congénitales qui ajoute le dépistage du trouble métabolique génétique MCADD, à la série de tests de dépistage néonataux déjà prévus par voie législative;

(e) Programme de vaccination contre le Human Papilloma Virus (HPV) qui prévoit une vaccination contre l'HPV, offerte à toutes les filles âgées de 11-12 ans avec un «catch-up» jusqu'à 18 ans.

<sup>18</sup> La législation sur le bail à loyer (réformée en 2006) prévoit une protection généralisée du locataire (prorogation légale du bail, sursis à exécution, fixation du prix du loyer, procédure spéciale en matière de déguerpissement, etc.) et donne aux communes la mission d'assurer dans la mesure du possible le logement de toutes les personnes qui ont leur domicile sur le territoire de la commune.

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