

TARGETED STAKEHOLDER CONSULTATION 2023 RULE OF LAW REPORT
UN HUMAN RIGHTS REGIONAL OFFICE FOR EUROPE (OHCHR)

LUXEMBOURG REVIEW

I. Justice System

B. Quality of justice

Training of justice professionals (including judges, prosecutors, lawyers, court staff)

In its 2022 concluding observations, the Committee on the Elimination of Racial Discrimination expressed regret that no information was yet made available on cases in which the International Convention on the Elimination of All Forms of Racial Discrimination had been invoked before or applied directly by Luxembourg's courts. The Committee expressed concern that this may signify that there was insufficient knowledge of the Convention on the part of the judiciary, civil society and the general public, and reiterated its recommendation to Luxembourg to step up training and awareness-raising efforts aimed at judges, prosecutors, law enforcement personnel, lawyers and the general public regarding the Convention to ensure that it is invoked or applied directly by the courts ([CERD/C/LUX/CO/18-20](#), paras 9 - 10).

Similarly, in its 2022 concluding observations, the Committee on Economic, Social and Cultural Rights noted that the rights enshrined in the International Covenant on Economic, Social and Cultural Rights had never been invoked before national courts or applied directly by them, and reiterated the recommendation to take effective measures, within the framework of legal and judicial training, to ensure that the justiciability of the rights enshrined in the Covenant is fully taken into account and to encourage the use of the Covenant as a source of law in national courts ([E/C.12/LUX/CO/4](#), paras 4 - 5).

In its [end of mission statement](#) in December 2022, the Working Group on Business and Human Rights highlighted the need for human rights training, particularly business and human rights training, for judges and public defenders.

III. Media Freedom and Pluralism

Other – Hate speech in the public discourse

While noting the measures taken by Luxembourg to combat hate speech, such as the “BEE SECURE Stopleveline” platform, the Committee on the Elimination of Racial Discrimination expressed concern in its 2022 concluding observations about reports of an increase in the number of cases of racial hate speech against migrants, refugees, asylum seekers and people of African descent, particularly on the Internet and in social media. It therefore recommended that Luxembourg take steps to prevent, condemn and combat hate speech directed at the groups that are the most at risk of racial discrimination, step up its efforts to stop the spread of racial hate speech over the Internet and in social media, conduct public awareness campaigns aimed at tackling prejudice and misinformation concerning migrants, refugees, asylum seekers and people of African descent and promoting respect for diversity and the elimination of racial discrimination, collect reliable and comprehensive statistics, based on ethnic origin, on reports of racial hate speech, as well as any prosecutions, convictions and sentences resulting from those reports, and the remedies provided to victims ([CERD/C/LUX/CO/18-20](#), paras 17-18).

IV. Other institutional issues related to checks and balances

B. Independent authorities

Independence, resources, capacity and powers of national human rights institutions ('NHRIs'), of ombudsman institutions if different from NHRIs, of equality bodies if different from NHRIs and of supreme audit institutions

In its 2022 concluding observations, the Committee on Economic, Social and Cultural Rights expressed concern that the Advisory Commission on Human Rights did not have the competence to deal with individual complaints and that the financial and human resources allocated to this institution remained insufficient for it to discharge fully of its mandate, including with regard to economic, social and cultural rights. The Committee recommended that Luxembourg continue its efforts to increase the effectiveness and independence of the Advisory Commission on Human Rights, taking into account the observations and recommendations made in March 2022 by the Global Alliance of National Human Rights Institutions, including by providing it with sufficient financial and human resources to enable it to fully discharge its mandate. The Committee also encouraged Luxembourg to examine the possibility of providing this institution with the capacity to receive and examine complaints and petitions concerning individual situations, including with regard to economic, social and cultural rights ([E/C.12/LUX/CO/4](#), para 8 - 9).

Similarly, in its 2022 concluding observations, the Committee on the Elimination of Racial Discrimination expressed concern, among others, that, despite an increase in resources allocated to the Centre for Equal Treatment and the Advisory Commission on Human Rights in recent years, the financial and human resources allocated to these two institutions remain insufficient for them to fulfil their mandates. The Committee also expressed concern that the Centre for Equal Treatment did not have a clear legal status and that its mandate did not cover the ground of discrimination based on national origin. It therefore recommended that Luxembourg allocate sufficient human and financial resources to the Centre for Equal Treatment and the Advisory Commission on Human Rights to enable them to fulfil their mandates effectively; and that the Centre for Equal Treatment be given a clear legal status and that the ground of discrimination based on national origin be included in its mandate ([CERD/C/LUX/CO/18-20](#), paras 13-14).

The need to increase the financial and human resources allocated to the Centre for Equal Treatment and give it greater powers, including the ability to bring legal actions on behalf of victims of discrimination, as well as strengthen its investigative powers and the binding nature of its decisions, was equally highlighted by the Human Rights Committee in its 2022 concluding observations ([CCPR/C/LUX/CO/4](#), para. 8).

D. The enabling framework for civil society

Measures regarding the framework for civil society organisations and human rights defenders (e.g. legal framework and its application in practice incl. registration and dissolution rules)

In its 2022 concluding observations, the Human Rights Committee reiterated its concern about articles 144 and 145 of the Criminal Code, which criminalized writings or drawings that insulted objects of worship or the ministry of a particular religion, as well as articles 443 and 444 on defamation, called

on Luxembourg to consider decriminalizing defamation and, in any case, resorting to criminal law only in the most serious cases. The Committee also stressed its concern about the fact that the provisions of article 25 of the Constitution required prior authorization for open-air, political, religious or other gatherings, and that this restriction may be retained in proposed amendment No. 7755 to chapter II of the Constitution, which was in the process of adoption. The Committee called on Luxembourg to take the necessary legislative measures to lift the ban on demonstrations that have not been notified in advance, providing local authorities and police officers with clear guidance on obligations under article 21 of the International Covenant on Civil and Political Rights ([CCPR/C/LUX/CO/4](#), paras 23 - 26).

Similar concerns were also voiced by the Committee on Economic, Social and Cultural Rights in its 2022 concluding observations, in particular as regards the impact of such provision on the exercise of the right to strike. The Committee also noted with concern that national legislation concerning the establishment and dissolution of trade unions is not fully in conformity with the International Covenant on Economic, Social and Cultural Rights, and recommended that Luxembourg take the necessary measures to guarantee the exercise of trade union rights, in particular the right to form trade unions and the right to strike ([E/C.12/LUX/CO/4](#), paras 26-27).

Other – Accountability of law enforcement authorities

In its 2022 concluding observations, the Human Rights Committee noted with concern that the criteria and thresholds for the use of force by law enforcement officials, which were set out in the Act of 28 July 1973 (as amended on 21 December 2007), did not comply with the criteria of necessity and proportionality set out in international standards, nor with the requirements regarding the circumstances in which firearms may be used. It therefore urged Luxembourg to bring its legislation on the use of force and firearms by law enforcement officials into line with the Code of Conduct for Law Enforcement Officials, the Basic Principles on the Use of Force and Firearms by Law Enforcement Officials and other relevant standards ([CCPR/C/LUX/CO/4](#), paras 13-14).