



The EU Mutual Learning Programme in Gender Equality

Preventing sexual harassment


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Prevention of sexual harassment in Luxembourg

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Abstract

Luxembourg addresses the prevention of sexual harassment in the broader context of sexual violence in general. Awareness-raising, training and education are the main tools that are deployed. Public authorities and private initiatives cooperate on multiple levels. If support for victims is provided, the keys to long-term success are seen in raising awareness and fighting stereotypes at all levels, from the earliest age onwards.

1. Relevant country context and policy debate

According to a recent [study](#) on safety for the period 2019-2020 published in March 2022 by STATEC, the National Institute for Statistics and Economic Studies, two thirds of women in Luxembourg report having been victims of physical, psychological, sexual or economic violence at least once in their lives. As for sexual violence, approximately 25% of women declare having been subjected to at least one form of sexual violence in their lifetime (including non-consensual touching, exhibitionist behaviour, rape or attempted rape and degrading sexual acts).

These figures show that violence against women and men is a reality in Luxembourg. It should, however, be noted that sexual harassment can occur in all areas and affects not only women and girls, who are the majority of victims, but also boys and men from a very early age onwards.

While movements such as "MeToo" and the public debate on the subject have increased public awareness, particularly in the world of work, politics and civil society, there have although been no recent cases of sexual harassment or sexual violence that have shocked the public, associations or the media to such an extent that they would have led to particular political reactions or a specific demand for the creation of new tools or institutions to combat sexual harassment in Luxembourg.

Luxembourg qualifies sexual harassment as sexual violence, gender-based violence and gender-based discrimination. It thus integrates its prevention and fight against sexual harassment into a broader framework of prevention of and fight against all

forms of violence, including sexual violence. The fight against violence is a cross-cutting priority of the Luxembourg government and simultaneously involves various state bodies and civil society actors.

Luxembourg applies a global approach which focusses, on the one hand, at prevention in the broad sense, i.e. information, awareness-raising of the general public, education of young people from the earliest age onwards, and training for professionals and, on the other hand, it targets on the assistance for victims but also for perpetrators of violence, which is based on a close cooperation with all the actors concerned.

In the following chapters the political context, the legal framework and the approach to sexual harassment applied in Luxembourg will be briefly presented, it is mainly a description of the current state.

1.1 The guidelines and legal framework set by the policy

1.1.1 The Luxembourg context

While the Council of Europe Convention on preventing and combating violence against women and domestic violence, known as the Istanbul Convention, [approved in 2018](#), is the international reference framework, Luxembourg's commitment to prevent and combat sexual violence, including sexual harassment, is manifested at different levels.

Alongside the various [legislative tools](#), whether in criminal law¹ (repressive aspect), labour law² (harassment in the private sector) or administrative law³ (harassment in the public sector), it is worth mentioning a few key documents, which demonstrate the Government's cross-cutting commitment:

- The [coalition agreement](#) places an emphasis on emotional and sexual education and defines it as a cross-cutting theme. In this context, the government aims to

¹ In criminal law, there is no offence of sexual harassment as such in our Criminal Code. Nevertheless, the various acts that make up sexual harassment may constitute offences, such as rape (viol), indecent assault (attentat à la pudeur; outrage public aux bonnes moeurs), and obsessive harassment (harcèlement obsessionnel).

² The provisions on sexual harassment are contained in Articles L. 245-1 et seq. of the Labour Code. They are closely inspired by European law. Article L. 245-2 defines sexual harassment as follows 1. the behaviour is unwanted, untimely, abusive and hurtful to the person who is subjected to it; 2. the fact that a person refuses or accepts such behaviour by the employer, an employee, a customer or a supplier is used explicitly or implicitly as a basis for a decision affecting that person's rights in relation to vocational training, employment, job retention, promotion, salary or any other decision relating to employment; 3 such conduct creates an intimidating, hostile, degrading, humiliating or offensive environment for the person subjected to it. According to Article L. 245-4 (3), the employer is obliged to take all necessary preventive measures to ensure the protection of the dignity of all persons in the course of employment relations. These measures must include information measures.

³ The [Statute of State Civil Servants](#) prohibits sexual harassment in Article 10 in a similar way to the Labour Code. A special commission monitors compliance with the rules prohibiting harassment and may receive complaints from victims.

ensure the promotion of gender equality, respect and dignity of physical, mental and sexual integrity and the prevention of discriminatory and sexist behaviour as well as relational and sexual violence including sexual harassment, which are common objectives of the Government.

- The [National Action Plan for Equality](#) between Women and Men (*plan d'action national pour une égalité entre les femmes et les hommes*), a living document managed by the Ministry of Equality between Women and Men (*Ministère de l'Égalité entre les femmes et les hommes*, hereafter MEGA) and supported by the whole Government, defines gender equality as a cross-cutting priority and a shared responsibility of the Government and includes among its seven priorities the fight against stereotypes and sexism, the promotion of equality in education as well as combating domestic violence.
- The [National Programme - Promotion of Affective and Sexual Health](#) (*Programme national – Promotion de la santé affective et sexuelle*, PAN-SAS) is supported by four ministries - the Ministry of National Education, Children and Youth; the Ministry of Equality between Women and Men; the Ministry of Family, Integration and the Greater Region ; the Ministry of Health and includes a multi-year National Action Plan on Affective and Sexual Health, the main objective of which is to ensure sexual rights and to equip and train professionals in the area of affective and sexual health, with a view to promoting and combating discrimination and relational and sexual violence. One of the key measures implemented by the PAN-SAS is the creation of the CESAS, the National Reference Centre for the Promotion of Sexual and Emotional Health (*Centre national de référence pour la promotion de la santé affective et sexuelle*), which is responsible for implementing the PAN-SAS measures in consultation with the ministries concerned.
- The National Action Plan "[Business and Human Rights](#)" (*Plan d'action national «Entreprises et droits de l'homme»*) aims to respond to Luxembourg's international commitments to strengthen the respect and promotion of human rights, in particular by making national and transnational companies aware of their responsibility with regard to human rights, both internally and throughout their economic value chains. Human rights violations obviously include gender-based discrimination, including violence at work and harassment.

While the coalition agreement defines the main lines, the various action plans are living documents which are evaluated, assessed and adapted on a regular basis and that ensure the operationalisation of the political objectives on the ground. These plans are mostly developed and managed by committees bringing together state bodies, associations and civil society actors. In this context it is worth mentioning some of the key committees in this area: the interministerial committee for human rights, the interministerial committee on affective and sexual health, the interministerial committee for human trafficking and the cooperation committee between professionals working in the fight against violence.

These committees thus allow not only for the operationalisation of the defined objectives, a constructive exchange between all the relevant actors mainly on the governmental level, but also with the civil society, but allow also the adaptation of

measures to the needs identified on the ground. Thus, they ensure a certain coherence while maintaining also a certain flexibility to react to changing needs on the ground and are thus the main guidance documents for government action.

A policy focused on prevention at the root

While the repressive aspect is important, it is clear from the objectives defined in the above-mentioned plans and from the concrete actions implemented on the ground that the Luxembourg approach to combating gender-based violence, including sexual violence and sexual harassment, consists of **prevention**, particularly in the form of education, awareness-raising, training and tools at all stages and all levels, from the earliest age onwards. The aim is to eradicate the problem at its root by removing stereotypes, gender biases, harmful practices and traditions, including the roles, skills, values and attributes traditionally attributed to men and women.

In the long run, this approach should ensure that sexual violence, including sexual harassment, is reduced.

In conclusion, the Luxembourg approach is characterised by :

- Broad prevention activities against all forms of sexism and sexual violence
- Awareness raising from an early age onwards
- Education for the equality of girls and boys, women and men, equality between all, regardless of sex, gender identity, age, sexual orientation, health status, origin, beliefs, or real or assumed racial affiliation.

1.1.2 Focus on certain contexts

In this second sub-heading, we look at different settings where a risk of harassment exists to briefly describe the problem and the system in place.

School environment

There is no specific legislation on sexual harassment in the school environment.

At present, the Ministry of Education does not have a system for collecting figures on sexual harassment, but an IT tool is being set up from 2021-2022 by the SePAS (*service psycho-social et d'accompagnement scolaires*, school psycho-social and support service), in order to identify the type of problems for which pupils call on these services.

Apart from this aspect, the Ministry collaborates with various organisations (*Planning Familial*, *Ligue médico-sociale*, BEE SECURE, mobbing asbl) to provide training and awareness-raising measures in classes on mobbing, sexual abuse, sexual education and new forms of violence in relation to new technologies. Together with the police, the Ministry of National Education also implements awareness-raising measures within the broader framework of children's rights, including the right to sexual integrity.

Together with CESAS, the Ministry also provides a [set of teaching materials](#) and trainings on the subject of 'emotional and sexual education' as mentioned above, which again supports prevention efforts in this area.

It is also worth noting that due to several complaints from students, the country's largest trade union (OGBL) has published and distributed an [information brochure](#) on Sexual Harassment in Schools as a preventive measure, providing a definition of the phenomenon and advice to victims and witnesses. This shows the broad engagement of various actors in the field.

In this context, it should be noted that MEGA and the associations supported by the Ministry also offer workshops, information material and webinars, among others, on the fight against and prevention of relational and sexual violence in primary and secondary schools and in the *Maisons Relais* - through the [rockmega](#) website.

Professional environment

The problem of sexual harassment is certainly most closely monitored and studied in the workplace, even if efforts are still needed.

Private sector

Among the various forms of harassment, sexual harassment was the first to be regulated by our legislation, the [law of 2000](#), currently incorporated in Articles L. 245-1 et seq. of the [Labour Code](#). This text was adopted on the basis of the relevant European Recommendation.

Among the many obligations incumbent on the employer, Article L. 245-4 (3) requires the employer "*to take all necessary preventive measures to ensure the protection of the dignity of all persons in the course of employment relations. These measures must include information measures*".

- It should also be noted that all collective labour agreements must set out the terms and conditions for combating sexual and moral harassment, including mobbing, and the disciplinary and other sanctions that may be taken in this context (Art. L.162-12 (2)).
- Furthermore, agreements with a national scope can be concluded, pursuant to Article L. 162-1 (1) CT on sexual harassment.

Despite this specific legislative framework, prevention, awareness-raising and the fight against sexual harassment are more likely to be carried out at the internal level of companies, through codes and charters of behaviour and dignity at work. The related approaches are therefore very different, between large companies with detailed procedures (often inspired by an international group policy) and small and medium-sized companies that have not or hardly addressed the issue.

The [Labour and Mines Inspectorate](#) (*Inspection du travail et des mines*, ITM) is competent to monitor compliance with many aspects of labour law, including sexual harassment. However, the number of complaints/cases handled in this respect remains limited, as evidenced by the annual reports of this administration (see also a [parliamentary question](#) from 2019).

Year	Complaints/Files		ICE Service		DES Service		
	Total files	"Harassment	Total	Harassment	Bullying	Discriminatory harassment	Sexual harassment
2021	51061	599	4210	57	27	0	0
2020	5423	407	4292	30	8	0	0
2019	65538	515	4312	40	N/A	N/A	N/A

Contrary to what is reported in the Danish contribution, harassment in general, and sexual harassment in the workplace, is unfortunately often not perceived as a matter of occupational safety and health, although this should clearly be the case.

The trade unions are naturally also active in this area. For example, the country's second largest trade union, the LCGB, published a [brochure](#) in 2020 that covers sexual harassment.

More recently, the Equality section of the OGBL carried out a [survey](#) on 'Women's experience of work' which revealed that 46% of the participants said they had been victims of sexism, 19% of harassment, while 46% said they had not been confronted with such situations. Half of them also said they had witnessed sexism or sexual harassment. Three quarters of those who said they had been victims felt that they had not been given moral support. Even though it only covers a sample of 684 people, all of them women, it is nevertheless a relevant source of statistical data we can refer to.

Public sector

In the public sector, it is the [General Statute for Civil Servants](#) that contains the main provisions on sexual harassment. The definition and the main principles are similar to those found in the Labour Code.

When it comes to preventive actions, the psychosocial service (*service psychosocial*), which provides assistance to state and municipal employees who are victims of violence at work, including sexual and moral harassment, is the main contact point. It also publishes [information brochures](#) and [guides](#) for victims of harassment.

Similar provisions cover the municipal civil service.

Public transport

Sexual harassment can occur in any other place, also in public transport. In a response to a [recent parliamentary question from 2022](#), the Minister of Transport acknowledges the existence of sexual harassment and underlines that the staff receives appropriate training and that different security measures, including video surveillance, have been put in place.

Years	2017	2018	2019	2020	2021
Sexual harassment of public transport workers	8	3	4	0	3
Sexual harassment of third parties	6	7	9	13	5

2. Good practices examples

Targeted intervention in the military

[A prominent case of sexual harassment](#) that was reported a few years ago occurred in the army, where an officer was accused to make constant attacks, including sexual remarks, whistling and accusations of having had sex after a nightclub outing with a female soldier.

The person concerned was sentenced by an [appeal judgment in 2013](#) for obsessive harassment (Art. 442-2 of the [Criminal Code](#)) to a fine of 2,500 euros.

The Ministry of Equality between Women and Men set up an information and awareness-raising programme on moral and sexual harassment and gender-based violence in the context of preventing and combating gender-based discrimination, with the aim of promoting equality between women and men and changing attitudes and behaviour among the armed forces' management. The result was increased awareness and gender consciousness. The army subsequently implemented a gender strategy and continues to request gender training for new recruits.

Equality delegates

The equality delegate (*délégué(e) à l'égalité*) was introduced by a law of 7 July [1998](#). The aim was to put in place in companies with more than 15 employees and a mandatory staff delegation a person who is particularly aware of and committed to gender equality issues in order to promote better gender equality and to prevent and fight against gender-based discrimination.

The equality officer has different competencies, including the correct application by companies of the legislation on equality of women and men at work, and is responsible for ensuring the protection of employees against moral and sexual harassment in the course of their employment relationship. To this end, he/she can provide assistance to potential victims and may propose to the employer any preventive action he/she deems necessary in the context of actions and measures to promote equality.

Equality representatives have also been introduced in the civil service. In both sectors they receive training in order to be able to carry out their tasks.

A network of partner bodies and associations

- In addition to the traditional authorities focussing on repression (police, public prosecutor's office, labour inspectorate, etc.), the Luxembourg State actively supports, through substantial or even full funding, a number of partner associations and foundations fighting violence, including sexual violence. While these actors certainly provide reception, assistance and support for victims, both women and men, they also play a role in prevention through awareness-raising, training and tooling.
- At the institutional level, the MEGA offers training on equality, sexism and stereotypes, at the level of schools and high schools, compulsory training for all

new state and municipal employees as well as for the Equality Delegates in the public sector.

It also participates in various committees, including the Interministerial Committee on Affective and Sexual Health, the Committee on Cooperation between Professionals in the Fight against Violence and the Interministerial Committee on Human Rights.

Finally, MEGA also runs the violence reference site (www.violence.lu) which covers all forms of gender-based violence and domestic violence and the domestic violence helpline and makes regular awareness raising campaigns and actions. Transferability aspects and lessons learnt

Luxembourg currently has the political will, legal framework and the mechanisms in place to combat all forms of sexual violence, including sexual harassment by preventive and educational action.

While the establishment of an alliance and a governmental commissioner for sexual harassment are certainly tools for initiating a debate and bringing attention to an identified societal problem, we note that the political will to act is present in Luxembourg and that the structures in place largely meet the needs currently identified.

At present, the Luxembourg system brings together elements of both proposed initiatives - the political will expressed through the various plans mentioned above which set the political framework and the exchange and cooperation between state and field actors through committees and less rigid cooperation to ensure the operationalisation of these objectives on the ground.

A great advantage is that these structures, anchored in the Luxembourg system and supported by state and non-state actors have a long-term perspective and a focus on dialogue and that they remain dynamic and adaptable in order to respond to changes in the field but also to political needs.

3. Conclusions and recommendations

Luxembourg has a solid background in preventing and combating gender-based violence and domestic violence, including sexual violence, because it has chosen to tackle this scourge at its roots as far upstream as possible.

It is however essential not to relax the efforts, and to continue and even intensify existing and future projects in order to achieve a lasting impact of our efforts and gradually bring about a cultural change in behaviour and mentalities. An approach that will in the long run have to ensure effective equality between women and men at all levels of society and in all areas through a systematic policy of promoting equality between women and men and combating gender-based discrimination, including gender-based violence, from an early age.

If prevention, awareness-raising, training and education can lead to changes on the ground, motivate victims to speak out and take action and make perpetrators

responsible for changing their behaviour, specific and focused care for victims of all sexual violence as stipulated in the Istanbul Convention should complete our offer.

This is why Luxembourg has initiated a dialogue with the various partners concerned and actors in the field to analyse the relevance of setting up an integrated reception centre for all victims of all forms of sexual violence, including harassment. Such centres would allow for the reception, assistance and support of victims of sexual violence through the presence and coordination of all the necessary actors in the field (gynaecologists, doctors, nurses, psychologists, nurses, legal advisers, police officers and magistrates) in a single location centred around the victims to ensure effective care.

It would be a sort of 'one-stop-shop' for victims, who would have access to all the services they need to be treated, assisted, monitored in one place and which would even enable them to lodge a complaint.