

LUXEMBOURG 2012 HUMAN RIGHTS REPORT

EXECUTIVE SUMMARY

The Grand Duchy of Luxembourg has a constitutional monarchy and a democratic, parliamentary form of government with a popularly elected unicameral Chamber of Deputies (parliament). The prime minister is the leader of the dominant party in the parliament. In 2009 the country held parliamentary elections that were considered free and fair. Security forces reported to civilian authorities.

Due to a high level of asylum requests during the year, the government was slow to adjudicate asylum claims.

Other human rights problems reported during the year included cases of domestic violence against women and allegations of human trafficking, primarily of women, for sexual exploitation.

The government remained prepared to prosecute any officials in the security services and elsewhere in the government who committed abuses.

Section 1. Respect for the Integrity of the Person, Including Freedom from:

a. Arbitrary or Unlawful Deprivation of Life

There were no reports that the government or its agents committed arbitrary or unlawful killings.

b. Disappearance

There were no reports of politically motivated disappearances.

c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment

The law prohibits such practices, and there were no reports that government officials employed them. However, the Council of Europe's Committee for the Prevention of Torture (CPT) in 2010 criticized the local police's practice of interrogating suspects considered dangerous or aggressive in a caged room with floor-to-ceiling bars. A 2011 report by the External Control Service on Places of

Deprivation of Liberty (ECPDL), a government-funded institution that operated independently, found that police seldom used these cells for interrogations.

Prison and Detention Center Conditions

Prison and detention center conditions generally met international standards, and the government permitted monitoring visits by independent human rights observers. For hygienic reasons authorities did not equip cells reserved for intoxicated persons at local police stations with mattresses.

Physical Conditions: The country's only prison, Schrassig prison, has a capacity of 598 inmates. As of October, the prison population consisted of 564 inmates: 539 men, 25 women, and one juvenile. There were two deaths in Schrassig prison between January and October. Both cases were still under investigation at year's end. According to press reports, they were drug related. Prison conditions for women were comparable with those for men.

In March the ECPDL conducted an inspection of the State Socio-Educational Center for Juveniles at Dreibern. The ECPDL provided a generally positive assessment but criticized the facility for continuously operating at the limits of its capacity (48 juveniles), thus facing the risk of overcrowding.

The retention center for rejected and undocumented asylum seekers has been operational since August 2011, with a maximum capacity of 44 inmates. As of October, it held 22 inmates: 20 men and two women. The average stay of inmates was 49 days. Approximately 340 persons have passed through the facility since August 2011.

Administration: Observers deemed prison recordkeeping adequate. Detainees had access to potable water. Alternative sentencing methods for offenders included community service and electronic monitoring devices. Prisoners had access to an ombudsman and opportunities for religious observation, as well as at least five hours of access by visitors per month.

Monitoring: Authorities permitted monitoring visits to prisons and detention facilities by independent observers including the CPT and the ECPDL.

d. Arbitrary Arrest or Detention

The constitution and law prohibit arbitrary arrest and detention, and the government generally observed these prohibitions.

Role of the Police and Security Apparatus

Civilian authorities maintained effective control over the Grand Ducal Police, the judiciary police, and other law enforcement services, and the government had adequate mechanisms to investigate and punish abuse and corruption. There were no reports of impunity involving the security forces during the year.

Arrest Procedures and Treatment While in Detention

Warrants issued by a duly authorized official are required for arrests in most cases. Within 24 hours of arrest, police must inform detainees of charges against them and bring them before a judge for a determination of the detention's legality. There is a functioning bail system, which judges regularly employed.

According to law, detainees are supposed to receive immediate access to an attorney, paid for by the government in cases of indigent detainees. The 2011 ECPDL report confirmed the CPT's findings that many detainees had no access to a lawyer until their first appearance before an investigating judge, despite a round-the-clock duty roster of public defenders created by the bar association. According to the report, a number of lawyers stated they only appeared at their client's first appointment with the investigating judge rather than at the initial interrogation because they lacked legal authority to do so earlier. The report recommended that the Ministry of Justice promptly implement changes allowing lawyers to assist their clients prior to and during interrogations. Authorities permitted detainees prompt access to family members.

e. Denial of Fair Public Trial

The constitution and law provide for an independent judiciary, and the government generally respected judicial independence in practice.

Trial Procedures

The constitution provides for the right to a fair trial, and an independent judiciary generally enforced this right. Defendants have the right to a presumption of innocence. Trials are public except for those involving sexual or child abuse cases. There are no jury trials. Defendants have the right to be present and to consult

with an attorney in a timely manner. They may confront witnesses against them and present witnesses and evidence on their own behalf. Defendants and their attorneys have access to government-held evidence relevant to their cases. Defendants have the right of appeal.

A legal basis exists for the establishment of religious and military courts under special circumstances, but no such action has occurred in more than 60 years.

Political Prisoners and Detainees

There were no reports of political prisoners or detainees.

Civil Judicial Procedures and Remedies

Magistrate courts serve as an independent and impartial judiciary in civil and commercial matters and are available to individuals who wish to bring lawsuits seeking damages for, or cessation of, a human rights violation. Citizens may appeal cases involving alleged violations of the European Convention on Human Rights by the state to the European Court of Human Rights (ECHR) after exhausting all routes for appeal in the country's court system.

Regional Human Rights Court Decisions

The country is party to the European Convention on Human Rights and subject to the jurisdiction of the ECHR. The government complied with court orders to pay compensation.

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

The constitution and law prohibit such actions, and the government respected these prohibitions in practice.

Section 2. Respect for Civil Liberties, Including:

a. Freedom of Speech and Press

The constitution and law provide for freedom of speech and of the press, and the government generally respected these rights in practice. An independent press, an effective judiciary, and a functioning democratic political system combined to ensure freedom of speech and of the press.

The independent media were active and expressed a wide variety of views without restriction.

Internet Freedom

There were no government restrictions on access to the Internet or reports that the government monitored e-mail or Internet chat rooms without appropriate legal authority. Internet access was widely available; according to International Telecommunications Union statistics, approximately 91 percent of the country's population used the Internet in 2011.

Academic Freedom and Cultural Events

There were no government restrictions on academic freedom or cultural events.

b. Freedom of Peaceful Assembly and Association

The constitution and law provide for freedom of assembly and association, and the government respected this right.

c. Freedom of Religion

See the Department of State's *International Religious Freedom Report* at www.state.gov/j/drl/irf/rpt/.

d. Freedom of Movement, Internally Displaced Persons, Protection of Refugees, and Stateless Persons

The constitution and law provide for freedom of movement within the country, foreign travel, emigration, and repatriation, and the government generally respected these rights in practice. The government cooperated with the Office of the UN High Commissioner for Refugees and other humanitarian organizations in providing protection and assistance to refugees, asylum seekers, stateless persons, and other persons of concern.

Protection of Refugees

Access to Asylum: The law provides for the granting of asylum or refugee status, and the government has established a system for providing protection to refugees.

Following the temporary closure of the asylum office in October 2011, the immigration office streamlined procedures and hired additional staff to address more effectively the high level of asylum requests. However, these measures were not fully operational at year's end, and prolonged waiting periods during the adjudication process remained a problem. Housing concerns that surfaced in 2011 subsided as local communities provided housing in hotels, apartments, or special housing containers throughout the country.

The government granted refugee status to the majority of Iraqi refugee applicants who conducted a hunger strike in September 2011. Authorities were still adjudicating the remaining requests at year's end. During the year 28 Iraqi refugees applied for asylum; five refused refugee applicants were returned to Iraq.

The granting or denying of international protection was determined on a case-by-case basis through individual interviews and background checks. Responsible government authorities and the population at large generally treated applicants and refugees well. However, the government refused the majority of applicants from Serbia because authorities often deemed their requests for international protection unfounded, that is, primarily based on economic factors.

Safe Country of Origin/Transit: Luxembourg applies the safe country of transit principle. There are no laws permitting the denial of asylum based on an applicant's country of origin.

Refoulement: The government provided protection against the expulsion or return of refugees to countries where their lives or freedom would be threatened on account of their race, religion, nationality, membership in a particular social group, or political opinion. There were no "black lists" for repatriation, and authorities examined each dossier on its merits.

Temporary Protection: The law provides for the possibility of granting protection to individuals who may not qualify as refugees. The government granted such protection to seven persons as of year's end. The country's laws classify cases of temporary protection under the category of subsidiary protection; there were five such cases during the year.

Section 3. Respect for Political Rights: The Right of Citizens to Change Their Government

The constitution and law provide citizens the right to change their government peacefully, and citizens exercised this right through periodic, free, and fair elections based on universal suffrage.

Elections and Political Participation

Recent Elections: In 2009 the country held elections for the Chamber of Deputies that observers considered free and fair.

Participation of Women and Minorities: There were 14 women in the 60-member Chamber of Deputies and four women in the 15-member cabinet. There were 18 women in the 32-member Supreme Court. There was one parliamentarian of Portuguese descent and one minister of Italian descent.

Section 4. Corruption and Lack of Transparency in Government

The law provides criminal penalties for official corruption, and the government generally implemented these laws effectively. There were no reports of government corruption during the year. The Ministry of Justice is responsible for combating government corruption. Public officials are not subject to financial disclosure laws.

While no law provides public access to government information, in practice the government granted the public access to such information and placed considerable amounts of government data on official Web sites.

Section 5. Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights

A number of domestic and international human rights groups generally operated without government restriction, investigating and publishing their findings on human rights cases. Government officials were cooperative and responsive to their views.

Government Human Rights Bodies: There is an Ombudsman Committee for the Rights of Children. Although government-funded and composed of government nominees, the committee was independent. The resources provided were sufficient to allow for its continuous and unrestricted operation. As a consultative body in the legislative process, the committee commented on the government's bills and amendments to law concerning children's rights. It was also active in outreach

efforts, informing the public about the rights of children and publishing an annual report on its activities.

Section 6. Discrimination, Societal Abuses, and Trafficking in Persons

The law prohibits discrimination based on race, gender, disability, language, or social status, and the government effectively enforced it.

Women

Rape and Domestic Violence: The law prohibits rape, including spousal rape, and the government enforced the law effectively. The legal penalties range from five to 10 years' imprisonment. The law prohibits domestic violence, and the government effectively enforced the law. The law is gender-neutral and provides for the removal of abusers from their residences for a 10-day period, which can be extended for an additional three months. Penalties may include fines and imprisonment. If an individual approaches a nongovernmental organization (NGO) for assistance in such cases, police are required to investigate. In 2011 there were 675 cases of spousal abuse requiring a police response; in 331 of the cases the abusing spouse was removed from the household.

The government funded organizations that provided shelter, counseling, and hotlines. Three hotlines were available to assist abused women. The government provided financial assistance to domestic violence victims during the year.

Sexual Harassment: The law prohibits sexual harassment and requires employers to protect employees from such harassment. The law prohibits gender-based job discrimination and harassment of subordinates by superiors. Disciplinary measures against offenders, including dismissal, are available. The law considered an employer's failure to take measures to protect employees from sexual harassment a breach of contract, and an affected employee is entitled to paid leave until the situation is rectified. Observers did not consider sexual harassment in the workplace a problem.

Reproductive Rights: Couples and individuals have the right to decide freely the number, spacing, and timing of their children, and to have the information and means to do so free from discrimination, coercion, and violence. There was easy access to contraception and skilled attendance during childbirth. There were no barriers limiting access to maternal health services.

Discrimination: Women enjoy the same legal rights as men, including rights under family law, property law, and in the judicial system. The law mandates equal pay for equal work. According to government reports, however, employers paid women 14 to 16 percent less than men for comparable work. The Ministry of Equal Opportunities is responsible for protecting the legal and social rights of women. In November the ministry started a campaign to promote the equality of men and women in both the personal and professional spheres of life.

Children

Birth Registration: Citizenship is governed by the principle of descent, according to which a father or mother who is a citizen automatically conveys citizenship to offspring at birth. The government registered all births immediately.

Child Abuse: A special police unit is responsible for the protection of minors, and two call centers, one government-run, the other administered by an NGO, were available to victims of child abuse. Neither the government nor NGOs published statistics on child abuse during the year. Police statistics did not distinguish between child abuse and other crimes involving minors.

Child Marriage: The minimum legal age of marriage is 18 for men and 16 for women, provided that one of the partners is a resident of the country. Permission of at least one parent is required if one of the partners is under the age 16. Statistics regarding marriage rates for individuals under the age of 18 were not available.

International Child Abductions: The country is a party to the 1980 Hague Convention on the Civil Aspects of International Child Abduction.

Anti-Semitism

The Jewish community numbered approximately 1,500 persons. There were no reports of anti-Semitic acts.

Trafficking in Persons

Please see the Department of State's annual *Trafficking in Persons Report* at www.state.gov/j/tip.

Persons with Disabilities

The law prohibits discrimination against persons with physical, sensory, intellectual, and mental disabilities in employment, education, air travel and other transportation, access to health care, the provision of other state services, or other areas. The government effectively enforced these provisions. The law does not require government or privately owned buildings to be accessible to persons with disabilities, but the government subsidized the construction of such structures. The NGO Aid for Handicapped Children advocated for the protection of the rights of persons with disabilities. Children with disabilities attended school. Based on the nature and degree of their disability they attended one of nine such specialized schools.

The law establishes quotas requiring businesses employing more than 25 persons to hire workers with disabilities and pay them prevailing wages, but the government acknowledged that it had not applied or enforced these laws consistently. The law required that private companies with at least 25 workers hire at least one employee with a disability and that the workforce of larger companies have between 2 and 4 percent of employees with a disability. For state and all public companies, at least 5 percent of the workforce had to be classified as disabled.

Societal Abuses, Discrimination, and Acts of Violence Based on Sexual Orientation and Gender Identity

The law prohibits all forms of discrimination based on sexual orientation. This law also applies to lesbian, gay, bisexual, and transgender individuals. There were no reported incidents of discrimination based on sexual orientation or gender identity.

Other Societal Violence or Discrimination

There were no reports of official or societal discrimination against persons with HIV/AIDS.

Section 7. Worker Rights

a. Freedom of Association and the Right to Collective Bargaining

The law allows workers to form and join independent unions of their choice without previous authorization or excessive requirements; the law also provides for the right to collective bargaining. The law allows unions to conduct their activities

without interference; workers exercised these rights freely; and the government protected these rights in practice. There were no reported instances of antiunion discrimination.

The law provides for the right to strike, except for government workers who provide essential services. Legal strikes may occur only after a lengthy conciliation procedure between the parties. For a strike to be legal, the government's national conciliation office must certify that conciliation efforts have ended.

b. Prohibition of Forced or Compulsory Labor

The law prohibits forced or compulsory labor; however, there were reports of trafficking in women for sexual exploitation.

See the Department of State's *Trafficking in Persons Report* at www.state.gov/j/tip.

c. Prohibition of Child Labor and Minimum Age for Employment

Laws exist to protect children from exploitation in the workplace, and the government effectively enforced these laws. There were no reports of illegal child labor.

The law prohibits the employment of children under the age of 16. Apprentices who are 16 must attend school in addition to their job training. Workers under the age of 18 have additional legal protection, including limits on overtime and the number of hours that they can work continuously. The Ministries of Labor and Education effectively enforced the child labor laws.

d. Acceptable Conditions of Work

As of October 1, the national minimum wage for a worker over the age of 18 was 1,846 euros (\$2,437) per month for unskilled workers and 2,215 euros (\$2,924) for skilled workers. The poverty income level was 1,650 euros (\$2,178) per month in 2011. The Ministry of Labor enforced the minimum wage effectively. Minimum wage provisions covered foreign and migrant workers.

The law mandates a maximum normal workweek of 40 hours. Premium pay is required for overtime or unusual hours. The law permits Sunday employment in

continuous-process industries (steel, glass, and chemicals) and for certain maintenance and security personnel. Other industries must request permission for Sunday work, which the government considered on a case-by-case basis and generally granted. Work on Sunday, allowed for some retail employees, must be voluntary and compensated at double the normal wage or with compensatory time off on another day, equal to the hours worked on Sunday. The law requires rest breaks for shift workers and limits all workers to a maximum workday of 10 hours, including overtime. The labor inspection court and the Superior Court of Justice are responsible for enforcing these laws. The government conducted investigations and transferred cases to judicial authorities regularly.

The law mandates a safe working environment. An inspection system included penalties for infractions. The labor inspectorate of the Ministry of Labor and the accident insurance agency of the Social Security Ministry carried out effective inspections. Workers have the right to ask the labor inspectorate to make a determination regarding workplace safety, and the inspectorate usually did so expeditiously. There were 50 inspectors by year's end. In 2011 there were 19,863 work related injuries, including 12 work-related deaths.