

# UPR MONITOR

International Service for Human Rights



Human Rights Monitor Series

UNIVERSAL PERIODIC REVIEW, 3<sup>RD</sup> SESSION  
LUXEMBOURG (FINAL)  
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## Overview

The small delegation of Luxembourg was headed by the Minister of Foreign Affairs and Immigration, Mr Nicholas Schmidt. The candid presentation by the Minister focused on updating information provided in the national report. 29 States then intervened to ask questions and make recommendations, with a very high proportion referencing the compilation and summary documents of OHCHR (see below), particularly the observations of treaty bodies. Issues raised included gender equality, racism, prison conditions, asylum and immigration, and ratification of outstanding human rights instruments. There was reasonable geographic representation of States that took the floor. In response, the Minister personally attempted to answer all questions and was receptive to critical comments, although on occasion he declared that he was unaware of certain activities in the country.

Many of the recommendations presented to Luxembourg were vague, calling upon the State to ‘further intensify efforts’ and ‘give further consideration’ to certain issues. As the Minister attempted to answer all questions in clusters, a high number of States also continued to ask questions that had already been answered.

## General information on Luxembourg

- Luxembourg is not a member of the Human Rights Council.
- The members of the troika for the examination of Luxembourg are Canada, Slovenia and Bangladesh.<sup>1</sup>
- The national report states that the Government held several consultations with other relevant stakeholders to consider their comments ‘well ahead of the drafting of the report’.

## Information submitted to the Working Group

The **national report** of Luxembourg<sup>2</sup> focuses on a thematic analysis of core issues. It does not reference human rights conventions ‘in any detail’, as this is dealt in the UN compilation, although it does provide a list of CEDAW recommendations that it has approved and is implementing.<sup>3</sup> The tone of the report is neutral and focuses on legislation in place to protect rights such as freedom of expression and religion, asylum and efforts to combat trafficking. In relation to policy, particular attention is given to child rights, the administration of justice, prison conditions, and immigration. The report recognises criticism of the States human rights record,

<sup>1</sup> Luxembourg did not request that a member of its regional group be among its troika. There were no objections by Luxembourg or by the members of the troika to the selection. For a full summary of the selection of troikas, see [www.ishr.ch](http://www.ishr.ch).

<sup>2</sup> A/HRC/WG.6/3/LUX/1, available

at [http://lib.ohchr.org/HRBodies/UPR/Documents/Session3/LU/A\\_HRC\\_WG6\\_3\\_LUX\\_1\\_Luxembourg\\_E.pdf](http://lib.ohchr.org/HRBodies/UPR/Documents/Session3/LU/A_HRC_WG6_3_LUX_1_Luxembourg_E.pdf)

<sup>3</sup> Ibid., para. 23-4.

for example from UNHCR in relation to non-separation of foreign detainees in an irregular situation. A final section of the report provides adequate details on human rights promotion measures in schools and through awareness campaigns.

The OHCHR **compilation of UN information** focuses on: the constitutional framework, where most treaty bodies commended efforts made, although CESCR regretted the level of justiciability of economic, social and cultural rights; and the human rights framework, which was also generally commended.<sup>4</sup> Core issues cross-referenced by treaty bodies and other UN bodies included the period of solitary confinement,<sup>5</sup> incidences of racism against Arabs, Muslims and foreign detainees,<sup>6</sup> trafficking,<sup>7</sup> the proper treatment of asylum seekers,<sup>8</sup> and the pay gap between women and men.<sup>9</sup> Best practice was identified in the integration of a gender perspective in development programmes, interculturalism in the school curricula and support of rehabilitation of children in armed conflict.

Four stakeholders, including two non-governmental organisations (NGOs), a national institution (Commission Consultative des Droits de l'Homme) and the Council of Europe (drawing from numerous sources) submitted information for the OHCHR **summary of stakeholders' information**.<sup>10</sup> NGO submissions focused on prison conditions and the treatment of minors in prison.<sup>11</sup> Other core issues included holding foreigners in a section of the State prison,<sup>12</sup> the gap in remuneration between men and women,<sup>13</sup> lack of legislation on procedure relating to refolement,<sup>14</sup> and the use of corporal punishment in the home.<sup>15</sup>

## Interactive dialogue<sup>16</sup>

### Presentation by the State

The Minister for Foreign Affairs and Immigration began his presentation by stating how important it was to be reviewed under the UPR as all States should be under the purview of the Council. He used 30 minutes to provide updates on certain aspects of the national report and to answer all questions received via the 'troika'. This included a recognition of a focus on conditions of detention, which he admitted were 'not perfect in my country', and updates on the building of a new holding centre for deportees and a closed unit for minors. He also provided updates on the recent visit of CEDAW to Luxembourg, the first of its kind for the Committee, but recognised that the outstanding pay gap between men and women of 14% was surprising and regrettable. Other points included the new action plan on violence against women, efforts to foster multiculturalism, and the incorporation of EU directives on asylum into domestic law.

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<sup>4</sup> A/HRC/WG.6/3/LUX/2, available

at [http://lib.ohchr.org/HRBodies/UPR/Documents/Session3/LU/A\\_HRC\\_WG6\\_3\\_LUX\\_2\\_Luxembourg\\_E.pdf](http://lib.ohchr.org/HRBodies/UPR/Documents/Session3/LU/A_HRC_WG6_3_LUX_2_Luxembourg_E.pdf)

<sup>5</sup> HRC and CRC at para.22,

<sup>6</sup> CERD, CAT

<sup>7</sup> CRC,CAT, CEDAW

<sup>8</sup> CAT

<sup>9</sup> CESCR, CEDAW, ILO Committee of Experts

<sup>10</sup> A/HRC/WG.6/3/LUX/3, available

at [http://lib.ohchr.org/HRBodies/UPR/Documents/Session3/LU/A\\_HRC\\_WG6\\_3\\_LUX\\_3\\_E.pdf](http://lib.ohchr.org/HRBodies/UPR/Documents/Session3/LU/A_HRC_WG6_3_LUX_3_E.pdf)

<sup>11</sup> Action des Chretiens pour l'Abolition de la Torture (Luxembourg) et Federation Internationale de l'Action des Chretiens pour l'Abolition de la Torture (France).

<sup>12</sup> Advisory Commission

<sup>13</sup> The European Committee of Social Rights of the Council of Europe (ECSR),

<sup>14</sup> Advisory Commission

<sup>15</sup> Global Initiative to End All Corporal Punishment of Children

<sup>16</sup> Most statements made at the UPR Working Group can be found at <http://portal.ohchr.org/portal/page/portal/UPR>. Fill in the form at [www.ohchr.org/english/bodies/hrcouncil/form.htm](http://www.ohchr.org/english/bodies/hrcouncil/form.htm) to receive username and password. Audiovisual archives of the meetings of the Working Group 'webcast' are available at [www.un.org/webcast/unhrc/index.asp](http://www.un.org/webcast/unhrc/index.asp).

The general tone of the presentation was open and cooperative, and the Minister closed by stating that Luxembourg would make the same efforts as they expect of others.

### Themes and issues

A high number of States commended Luxembourg for the quality of the national report, for the holding of national consultations, and for their constructive approach to the UPR.<sup>17</sup>

The issue of racism, xenophobia and related intolerance pervaded the review. Quoting from CERD, Australia was concerned by allegations of racism by law enforcement officials and enquired into efforts to combat this. Germany addressed the discriminatory treatment of foreign detainees by personnel, which the Minister claimed to be surprised about. Algeria raised concerns about discrimination in access to employment and family reunification, while Azerbaijan, Malaysia, Iran and Argentina drew attention to allegations of incitement directed at Arabs and Muslims. On the latter issue, the Minister claimed that he was not aware of such incidents and that incitement is a criminal offence in Luxembourg.

Many States raised questions and made recommendations related to women's rights, gender equality and prevailing stereotypical attitudes towards women.<sup>18</sup> France sought updates related to the action plan on violence against women. In response, the Minister listed an interministerial committee for planning, psychological support units, training of police officers and expulsion of violent husbands from the home as elements of this plan. Iran and Azerbaijan expressed concern at the pay gap between women and men, and Slovenia noted that progress also needed to be made in relation to women's participation in political life. Both points were duly accepted by the delegation.

The issue of conditions in detention was often raised during the review, perhaps due to the focus of NGO submissions on the issue. Both France and the Czech Republic sought additional information on expected conditions for minors in light of new developments, and the Czech Republic enquired into the rules on the maximum period for solitary confinement. Ghana and Slovenia expressed concern in relation to the separation of detained mothers from their children, particularly non-nationals and alongside Uruguay recommended consideration of non-custodial alternatives to imprisonment, while the latter asked why the prison population was growing. The Minister cited a combination of an increase in population, mobility and a surge in drug trafficking as likely causes, and explained that the best interests of the child are always used as the criteria for determining the situation of children of single mothers in custody.

The issue of asylum and immigration was also at the forefront of the review. Azerbaijan and Brazil recommended a definition of *non-refoulement* under national legislation, while France recommended an acceleration of the enforcement of EU directives related to asylum processes. The Russian Federation recommended that the State draft strategies to combat prostitution, leading to trafficking.<sup>19</sup> The Minister replied that two such draft laws are already in place. Canada recommended that the State implement relevant provisions of the Palermo Protocol and the recommendations of CAT and the CRC in this regard.

A very high percentage of States recommended that Luxembourg ratify outstanding human rights instruments.<sup>20</sup> It was notable that Western States tended to request acceleration of the ratification of the

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<sup>17</sup> Australia, Germany, Cuba, Azerbaijan, Italy, Chile, Malaysia, United Kingdom, Egypt, Burkino Faso, Sweden, Portugal, Ghana.

<sup>18</sup> Cuba, United Kingdom, Iran, Mexico, Malaysia,

<sup>19</sup> Chile also sought more information on combating prostitution.

<sup>20</sup> Brazil, Australia, United Kingdom, Argentina, Turkey (Convention on Disabilities); Brazil, Azerbaijan, Argentina (Convention on Disappearances); Azerbaijan, Brazil, Czech Republic, United Kingdom, Argentina (OPCAT); Azerbaijan, Egypt, Algeria, Mexico (Convention on Migrant Workers); Egypt (OPCRC on the sale of children).

Optional Protocol to the *Convention against Torture* (OPCAT)<sup>21</sup> whereas developing countries tended to request ratification of the *Convention on Migrant Workers*.<sup>22</sup> Italy recommended that Luxembourg submit its long overdue periodic report to CERD. The Russian Federation also asked the very interesting question of why Luxembourg had only responded to two of twelve requests for information from various special procedures of the Council. The Minister did not answer this question.

Other issues addressed during the review included: the need to adjust official linguistic terminology to reflect gender and child equality (Canada), which the Minister readily accepted; Luxembourg's programme on parental assistance (China); judicial delay (Mauritius); education (Senegal) and dispute resolution among religious groups (Belgium). Many States also commended Luxembourg's ability to donate 0.7% of its GDP to international development assistance, while Cuba recommended that Luxembourg encourage other developed countries to do the same.

### Adoption of the report

The adoption of the report began with the troika expressing its appreciation to Luxembourg in finalising the report. Luxembourg also thanked the troika, Secretariat and President, and also expressed its appreciation for the frankness of the dialogue. It noted that the 20-plus recommendations in the report deserved close consideration and an attentive response, and so Luxembourg would inform the Council of its position prior to the March 2009 session of its positions. Luxembourg concluded that it intends to make maximum use of the UPR, and to continue constructive dialogue in order to strengthen its promotion and protection of human rights.

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21

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