

Country session: Luxembourg

Date of session: 19 – 21 May 2021 (87th session)

Context

Due to the COVID-19 pandemic and restrictions on in person meetings and travel, the CRC Committee decided to conduct online reviews during its 87th session. Luxembourg is the second country being reviewed under simplified reporting procedure by the CRC Committee.

Background information

[OHCHR press release](#)

Webcast: [Part 1](#), [Part 2](#), [Part 3](#)

[Audio file](#)

Reporting

Reporting methodology

Standard reporting procedure

Simplified reporting procedure

Concluding Observations with urgent measures

State report

Common core document	
Updated document	4 March 2020
Annexes	4 March 2020

CRC	
No. of report	V - VI
Due date	28 February 2020
Submission	4 March 2020

Public reports from children's rights defenders

Written inputs	
NGOs	Ombudsman fir Kanner a Jugendlecher (Ombudsman pour enfants et jeunes) ECPAT Luxembourg and international StopIGM.org / Zwischengeschlecht.org
NHRIs	Commission consultative des Droits de l'Homme du Grand-Duché de Luxembourg



State delegation

The delegation from Luxembourg was composed by the Minister of Education, Childhood and Youth as Head of delegation and representatives of the Ministry of Foreign and European Affairs; the Ministry of Justice; the Ministry of Health; the Ministry of Family, Integration and the Greater Region; the Ministry of Equality between Women and Men; and the Permanent Mission of Luxembourg to the United Nations Office at Geneva. The Government Advisor at the Ministry of National Education, Childhood and Youth was coordinated the delegation's answers.

Committee's Task Force members

Name & Last Name	Country
Hynd Ayoubi Idrissi (coordinator)	Morocco
Velina Todorova	Bulgaria
Ann Skelton	South Africa
Benoît Van Keirsbilck	Belgium

Dialogue description

i. Character of the dialogue

Despite the online format, the dialogue was fluid and constructive. There were no technical issues, and the atmosphere was positive.

ii. General assessment made by the Committee

The Committee congratulated Luxembourg for the investiture of the Ombudsperson for children and looks forward to getting more information about it. The Committee seemed satisfied by the delegation's answers and inquired about the new legislations Luxembourg is developing on child protection, on filiation and on juvenile justice. However, the members were concerned about violence against children, both offline and online, and what system is put in place to prevent and protect children from violence. In that regard, they pointed out that the definition of pornography and prostitution of Luxembourg's legislation is not aligned with the Optional Protocol on the sale of children, child prostitution and child pornography and must be changed, which the delegation agreed to do. On juvenile justice, the Committee members were preoccupied by the choice of a lawyer and the condition detentions and asked Luxembourg what is being done to guarantee free and informed access to justice and the alternatives to detention.

Some members of the Committee welcomed Luxembourg's policy on children in situations of migration, but also reminded the government that the evaluation of the best interest of the child is delicate and demands strong expertise. The Committee also raised that no real effort was made to improve the data collection system and recommended the government to take measures to do so.

Questions were asked by the Committee about the State's reservations on article 3, 6, 7 and 15 of the CRC Convention, and whether Luxembourg is planning to review or to withdraw them.

iii. Main issues discussed

- **Juvenile justice:** A new reform is in construction in Luxembourg and the Committee was curious to learn more about it, mostly regarding access to justice, judicial assistance, the detention conditions and alternatives proposed, as well as the implementation of the Optional Protocol on a communications procedure.
- **Detention:** The Committee asked for further explanation in regard of the possibility of 3 renewable months of custody for children, and what alternatives are proposed. The Committee raised its concern of such a placement and the fact that it can be repeated. These concerns continue when the delegation explained that the judge can decide to pursue children from 16 to 18 years old as adults in case of serious crimes. However, the delegation assured that everything is done to avoid incarceration: judicial supervision, psychologic support and the new law on juvenile justice that will limit the repetition of custody.
- **Right to be heard and access to justice:** The Committee asked who interprets the criteria of discernment and how can children exercise their right to be heard. The delegation answered that the judge is the one interpreting the criteria of discernment and that there are two possibilities for the child exercising the right to be heard: being represented by a legal representant or lawyer or exercising this right him/herself. It is through services present at schools and the Ombudsperson than children are inform of their right to be heard and access justice. A Committee member wanted to know if a minor can be at the origin of a procedure and the delegation said yes, but his/her representant will be informed and present to the audition, unless the minor doesn't want to, a solution will be provided. It is a case-by-case approach.



- The choice of the lawyer: The delegation explained that every child has the right to choose freely his/her own lawyer and that a list of lawyer specialists on children's rights is provided to help the child making a choice. The Committee raised concerns about the accessibility of that list and the fact that in practice, lawyers are designed by the court and not by the child. The government answered that it is aware of this issue and will try to diffuse that list and make it accessible for every child.
- Criminal records of minors are not available to the public so it cannot be used against them.
- **Violence against children and child protection system**: The Committee welcomed the new law on child protection and the interdiction of violence in the family environment, but also pointed out the absence of specific sanction for sexual violence and female genital mutilation, and asked about the violence outside the family and the domestic violence during the Covid-19 pandemic. Luxembourg responded that there are specific articles on sexual violence, FGM, rape and injuries, with an aggravating when these infractions are committed on minors. The country also put in place campaigns which include workshops, website and applications, to fight against all type of violence including domestic violence and FGM. The Ministry of education and the National Office for children are in charge of sensibilizing on violence and informing of the recourse's possibilities. Regarding the important resources spent, the Committee asked Luxembourg if a decrease of violence was found, to which the delegation responded that numbers are more or less stable. The stability shows that campaigns, trainings, care services for children's victims are working.
- Digital environment: An action plan was implemented by Luxembourg to fight against online violence; together with digital enterprises, they created a helpline. The Committee welcomed this action plan but was worried about sexual content made by children themselves and the solution proposed to deal with that issue. The government reassured the Committee in explaining that a child sending pictures of him/herself is treated as a victim but the one sharing content of another child is committing an infraction, and in that case, they try to adopt a pedagogic approach in giving warnings and doing prevention campaigns.
- **Family environment and alternative care**: The Committee was really concerned about the number of children placed outside their family and asked for explanation. Furthermore, it asked why Luxembourg resorts to abroad placement and how the government can exercise a control on foreign families. The government explains that ambulatory services have doubled and permit to prevent placement outside the family. This child care approach aims to deinstitutionalised the child protection system. However, they are not always finding solutions and have to place children, sometimes abroad because of a lack of resources. The families living abroad have the same obligations than the ones living in the country and are often controlled. The Committee was not satisfied with the answer of the delegation and asked again why there are so many placed children. The Committee also ask why the two types of foster families - the close family of the children and the non-close family - are not monitored under the same criteria. Such a difference could be harming for children. Luxembourg interprets the important number of placements as a result of more reports, meaning that the campaigns are working. The State also specified that close families already have a support and have access to the same formations than other families, the difference is that is not mandatory for close families. They further explained that a new regulation will be implemented with the protection law in introducing a special status for foster families without differences.



- **Best interest of unaccompanied children:** Luxembourg institutionalised a Commission in charge of the evaluation of the best interest of unaccompanied children asking for asylum in Luxembourg. The State has a precursor role in the European Union and other States are taking example to implement the same politic. However, the Committee reminded the delegation that such an evaluation is really delicate and requires opinion of experts and people working in the field so an impartial decision can be made. The Committee also asked if the decision of this Commission is mandatory, and what profiles the Commission can evaluate. In practice, experts are invited by the Commission and everything is made to ensure an impartial decision, but this decision is only an opinion and not always followed. The delegation also specified that only unaccompanied minors can bring a case to the Commission. The Committee reminded its jurisprudence on detention of migrant children, which Luxembourg retorted that only children with families are sent to administrative centres according to the European legislation.
- **Right to know one's origins and filiation:** The Committee pointed out that even if the spirit of the filiation's law is aligned with the CRC article on the right to know one's origins, it needs to be more precise and accompanied with implementation measures and a special budget must be allocated. Luxembourg agreed and explained that to complete this law enouncing the principle of the filiation, another one, which details all the implementation measures, is currently in development and will soon be debated in Parliament. Luxembourg also ensured that the adoption of this law will permit to review and withdraw its reservations to the CRC Convention.
- **Children with disabilities and inclusion:** Luxembourg created 9 educational support centres for children with disabilities. Despite the positive information the Committee received about these centres, that the Committee raised concern that it promotes specialisation instead of inclusion. The delegation said the principle is inclusion and that these centres must be seen as part of a global process and that the principle of subsidiarity applies, meaning children are always attached to ordinary schools even if they are going to these centres. The Committee was confused about how these centres operate and asked for clarification. The State explained that children are cared for in the centres and staff also come directly to schools to accompany the children who need support.
- **Mental health:** The dialogue was about the suicide rate and support put in place to prevent and help children including during the Covid-19 pandemic. 15% of adolescents have suicidal thoughts which is the reason why the government decided to reactivate the program on mental health as well a training for school professionals and a peer-to-peer training.
- **Education:** School drop-out and support during the Covid-19 pandemic were the two issues discussed. Indeed, the Committee members were surprised by the high number of children dropping-out schools as well as disciplinary expulsions. Luxembourg specified that the rate is only taking into account the public sector and not the private. The dropout rate is referring to that category but is not representing the general education system of Luxembourg because a lot of families are supporting their children in private education. A lot of effort has been made by the government to prevent this issue, mostly in recruiting and training educational staff in High school where the rate is the highest. Education during the Covid-19 pandemic: The Duchet wanted to leave schools open to the maximum possible extent during the pandemic. The schools closed between March and May 2020, but a full online program was built, and support was provided to help children and families during that time.



Recommendations of the Committee

In its [Concluding Observations](#), the Committee drew the State party's attention to the need for urgent measures concerning the following areas:

- **Non-discrimination:** The Committee noted that in the legislation, there is still a distinction between children of married and unmarried parents and recommends the State party to take all necessary measures to ensure that there is no discrimination against children of unmarried parents.
- **Right to identity:** The recommendation of the Committee concerns the draft law on access to information on individual's origins pertaining to adoption or conception through egg or sperm donation. The Committee recommends the State party to provide a clear and detailed legislation on the right to access its origins, in particular regarding children adopted, born via anonymous births or assisted reproduction technologies, including those involving gamete or embryo donations, or surrogacy arrangements concluded abroad by resident parents in the State party.
- **Children deprived of a family environment:** Regarding the judicial placement of children, the Committee recommends the State party to ensure that the transfer of parental authority respects fundamental procedural rights of both parents and children such as the right to a remedy, the right to have a lawyer in attendance of the right of the child to be heard. The State must ensure that the decision of separating children from parents are taken only with clear and adequate criteria of the best interest of the child. In case of a separation, the State must ensure that children and parents are informed in advance if the child is transferred in institution or foster family in order to be prepared to the change. The Committee also recommends Luxembourg to reduce the institutionalization as much as possible in facilitating a family-based care for children in taking measures to support the extended family who take in a child as well as in strengthening the foster care system for children. Ensuring that children are placed in foster families within the State party's territory and in proximity to their biological families so can reunite with them. Support must be provided to ensure the contact between the child and its family. Finally, the State must review and monitor the placement of children both in foster care and institutions regarding the quality of the care.
- **Children with disabilities:** The Committee urges the State party to adopt a human rights-based approach to disability and set up a comprehensive strategy for the inclusion of children with disabilities. In that regard, the Committee asks Luxembourg to address all forms of discrimination against children with disabilities in all settings; to develop inclusive education in training and assigning specialized teachers and professionals in integrated classes; to take measures to detect, prevent and combat violence against children, especially girls with disabilities and collect and publish data of such violence; to take immediate measures to ensure the access to health care for children with disabilities, including early detection and intervention programmes with relevant professionals; to put in place a policy to prevent from forced sterilization and ensure the training of relevant professionals to apply the policy; and to provide reasonable accommodation for children with disabilities in all settings.
- **Asylum seeking and refugee children:** The Committee urges the State party to take non-custodial solutions for children in situations of migration including foster care and accommodation in opened centres and prevent and limit the placement of children in centres together with adults. The Committee also reminds the State to be particularly cautious when it comes of the removals of

families with children in school. The Committee also commands Luxembourg to develop a standard protocol on age-determination methods that is multidisciplinary, reliable and respectful of children's rights. In case of serious doubt about the claimed age, the principle of the benefit of the doubt should apply. In that regard, the State must ensure access to effective appeal mechanisms for the child asking for asylum. The State also needs to strengthen the authority responsible of the determination and application of the best interest of the child in asylum and migration-related procedures, including in the "Dublin" cases and ensure that the advisory commission for the evaluation of the best interests of unaccompanied children is independent, multidisciplinary and decision-making body. The State must establish a special status and long-term solutions for children who do not apply for international protection.

- **Administration of child justice:** The Committee presses the State party to adopt its new draft law on the protection of children in the justice system in order to ensure that all children without any exceptions are treated within the child justice system by specialized judges favouring restorative justice and reintegration and ensuring all procedural rights, including the support of a specialised lawyer, allowing choice from an accessible list or appointed by the bar association. The Committee asks Luxembourg to take measure in order to separate protection measures for child victims and children in conflict with the law in always taking into account the best interests of the child. The State must also establish a minimum age for deprivation of liberty of children and ensure that detention is used as of last resort measure and for the shortest period of time possible and ban the possibility to transfer a child to an adult prison or penitentiary centre. The solitary confinement should be used only for the own protection of the child or others and be supervised by a suitably trained staff member. Finally, the State has to ensure that placements in socio-educational boarding schools are re-examined regularly with the aim of reconsidering and terminating such placements.
- **Follow up to the Committee's previous concluding observations on the Optional Protocol on children in armed conflict:** The Committee recommends the State to formally criminalize the recruitment of all children in hostilities and to continue its international cooperation to prevent recruitment of children in armed conflicts and to rehabilitate and integrate children involved in armed conflicts.

Sustainable Development Goals

The Committee urges the State party to ensure the meaningful participation of children in achieving all Sustainable Development Goals.

Throughout its Concluding Observations the Committee referred to the following targets:

- 10.3 regarding discrimination against children on all grounds covered under the Convention.
- 16.9 regarding access to birth registration and identity documents for all children including children in situation of migration.
- 16.2 to recommend the State party to enforce the prohibition of torture or cruel, inhuman or degrading treatment or punishment of children, particularly regarding prevention, appropriate punishment of the infraction's authors, remedies and in ensuring a safe access to complaint mechanisms for children.
- 5.2, 16.1 and 16.2 and urges the State party to develop a comprehensive strategy for preventing and combating all forms of violence against children, including domestic violence,



neglect and sexual abuse, in putting in place a prevention, investigation and sanction, complaint mechanisms and support for child victims.

- 2.2, 3.4 and 3.8 to address the regional disparities on access to health care and services and allocate sufficient resources to health services. The Committee also recommends the State to adopt a programme on nutrition and mental health, mostly regarding issues related to obesity and suicide rate.
- 3.5, 3.7 and 5.6 to ask the State to adopt a comprehensive sexual and reproductive health policy for adolescents and strengthen the prevention programme on substance abuse.
- 1.2 regarding social welfare and family assistance policies and programmes to fight against poverty.
- 4.1, 4.3, 4.4, 4.5, 4.6 and 4.A to urge the State to take measures with the aim to ensure access to an education of quality to every child, prevent from violence and bullying in schools and address the problem of the high number of drop outs.
- 4.2 regarding the implementation of a strategy for early childhood development.
- 4.7 to ensure Human Rights education at school.
- 8.7 and recommend to the State to fight against child labour, in particular the employment of children in harmful or hazardous work.
- 8.7 regarding child trafficking.

Next State report

CRC	
No. of report	VII
Due date	5 April 2026

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