



# International Convention on the Elimination of All Forms of Racial Discrimination

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## Committee on the Elimination of Racial Discrimination Eighty-fourth session

### Summary record (partial)\* of the 2282nd meeting

Held at the Palais Wilson, Geneva, on Friday, 14 February 2014, at 10 a.m.

*Chairperson:* Mr. Calí Tzay

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Consideration of reports, comments and information submitted by States parties under  
article 9 of the Convention (*continued*)

*Combined fourteenth to seventeenth periodic reports of Luxembourg (continued)*

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\* No summary record was prepared for the rest of the meeting.

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*The meeting was called to order at 10.05 a.m.*

**Consideration of reports, comments and information submitted by States parties under article 9 of the Convention** (*continued*)

*Combined fourteenth to seventeenth periodic reports of Luxembourg* (continued)  
(CERD/C/LUX/14-17; CERD/C/LUX/Q/14-17; HRI/CORE/LUX/2012)

1. *At the invitation of the Chairperson, the delegation of Luxembourg took places at the Committee table.*
2. **Mr. Hoscheit** (Luxembourg) said that his delegation would give answers to questions raised and stood ready to provide any supplemental information requested.
3. **Mr. Thyges** (Luxembourg), referring to the remark that amendments made to article 457-3 of the Criminal Code in 2011 and 2012 might restrict the definition of the crime of genocide denial, said that the article reflected the legislation of the International Criminal Court, while article 136 bis of the Criminal Code gave a comprehensive description of the crime of genocide.
4. He explained that racism had not been defined in Luxembourg law as an aggravating circumstance because racism itself was a crime. Therefore, where racist insults or racist motivation had been established in relation to a crime, a sentence would be passed in relation to the racist element in addition to the main sentence. The penalty for racist crimes and discrimination in Luxembourg ranged from a fine of 25,000 euros to a 3-year prison sentence. By way of illustration, a person who had made neo-Nazi insults in the streets and who had been found to have pictures of swastikas in his pocket had been fined 1,000 euros and sentenced to 4 months in prison.
5. Several Committee members had referred to article 4 (b) of the Convention concerning the prohibition of organization and propaganda activities that promoted or incited racial hatred. In Luxembourg, the statutes and purpose of any new organization were scrutinized by the Ministry of Justice and no racist organization would be allowed to operate. An organization convicted of promoting racial hatred would either be disbanded under public order legislation or fined. An evaluation of the laws in place had been produced and studied in 2013.
6. On account of a number of exemptions for residents and people who had attended school in Luxembourg, the language test had been taken by between 12 and 20 per cent of those applying for nationality, with a failure rate of between 20 and 30 per cent. Therefore, only 3 to 7 per cent of those applying for Luxembourg nationality had been refused as a result of failing the language test. It was proposed to amend the 2008 Nationality Act in the light of criticisms concerning the spoken part of the test. Although it hoped to do so in the future, Luxembourg had not yet ratified the Convention on the Reduction of Statelessness; nevertheless, its 2008 Act covered most of the points raised by that law.
7. **Mr. Hoscheit** (Luxembourg), referring to an earlier question by Ms. Dah, confirmed that there were 25 citizens from Burkina Faso in Luxembourg.
8. **Mr. Da Cruz** (Luxembourg) said that applications had been received from asylum seekers from the following safe countries of origin: Albania; Benin; Bosnia; Cape Verde; Ghana; Kosovo; Macedonia; Montenegro; Senegal; Serbia and Ukraine. The two African countries of Benin and Ghana were considered safe for men but not for women in view of the problem of female genital mutilation. Applications from asylum seekers from the list of safe countries were not automatically rejected, each case being considered on an individual basis. All rejected applications for international protection could be appealed but in the case of an asylum seeker from a safe country of origin the appeal could be made only to the Administrative Tribunal, with no possibility of further appeal to the Administrative Court.

9. With regard to application of the Dublin Regulation, 179 asylum seekers had been returned to another Member State in 2013, with the highest number being sent to Belgium (91), followed by Italy and Germany. Asylum seekers in Belgium were granted access to employment after a maximum of 9 months, a time period considered reasonable and within the initial 12-month period fixed by the 2003 European Council Directive on reception conditions. Any necessary amendments to Belgian law would be made following the outcome of ongoing European negotiations on that Directive.

10. The waiting list for public housing in Luxembourg stood at 1,050 applicants, of whom approximately one third were Luxembourg nationals. Luxembourg nationals did not feel resentment concerning their access to housing.

11. **Ms. Martin** (Luxembourg) said that the welcome and integration contract was a consensual arrangement under which certain services were provided; no sanctions were imposed on those who did not comply with it. The contract, which was open to all foreigners who were legally resident in Luxembourg, contained a number of benefits, including reduced requirements for nationality applications. Each signatory was assigned a dedicated case worker, who followed his or her case throughout its duration.

12. All European Union nationals who were resident in Luxembourg were entitled to receive the guaranteed minimum income. European Union nationals from neighbouring countries who worked in Luxembourg had no automatic right to receive that revenue, although many of them had rights to a certain income within their own countries. Workers from third countries must be resident in Luxembourg for five years before they obtained the right to a national minimum income.

13. Luxembourg currently provided housing for some 2,100 foreign nationals, who were at various stages of the asylum and residence application process. Luxembourg had a high number of applicants compared with many other European countries. Accommodation was provided through private and public housing, including some camping sites. Minimum standards of hygiene and safety were applied and accommodation which did not meet them was no longer used. A building programme for temporary social housing was under way.

14. Asylum seekers and foreign nationals requesting residence were provided with health and education services. The number of administrative case workers allocated to deal with requests had been increased in order to meet demand. The Centre for Equal Treatment ensured the rights of non-residents in Luxembourg and a draft law envisaged strengthening its status within a human rights body that would unite four Luxembourg institutions, including the Advisory Commission on Human Rights.

15. The Act of 16 December 2008 concerning the reception and integration of foreigners had not made provision for the continuation of a standing commission to combat racial discrimination but the Centre for Equal Treatment had a wide mandate, which could cover that area in the future in the absence of a standing commission.

16. There were no native citizens of Luxembourg who belonged to the Roma community. Although it was estimated that between 200 and 300 Roma were resident in Luxembourg, it appeared that through fear of discrimination they were reluctant to draw attention to their ethnic origin; it had therefore proved difficult to interview them in order to ascertain their views on their experience and status.

17. **Mr. Avtonomov** (Country Rapporteur) understood the difficulties involved in gathering information, as in the case of the Roma, but he believed that more efforts should be made in order to collect statistical data, without of course running the risk of discrimination as a result of racial profiling. Discreet methods could be found to make contact with relevant members of ethnic minorities. The Government required accurate data on which to base its policies in respect of both Luxembourg and foreign nationals. The

daytime population of foreigners was much higher than the figures suggested, due to the number of cross-border workers who entered Luxembourg every day and who might be exposed to discrimination during their working day.

18. With respect to the Yeniche, he recalled that the Committee's mandate covered discrimination on the grounds of descent as well as race, colour or national or ethnic origin. Although the Yeniche were not considered a separate ethnic group, they were a specific minority group with an inherited language.

19. There appeared to be some confusion between the International Labour Organization (ILO) Domestic Workers Convention, 2011 (No. 189) and the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families, although the ILO Convention was based on entirely different principles. In most cases, domestic workers came from poorer countries, which made them more vulnerable and made it more difficult for them to defend their rights. The State therefore needed to monitor the situation in order to prevent any discrimination. The Committee had already recommended the ratification of the United Nations Convention to many European countries.

20. **Mr. Vázquez** said that the unwillingness of the few Roma to make themselves visible appeared to indicate some sort of societal intolerance towards that group, which pointed to a need to promote greater tolerance and sensitization. According to reports, members of the Roma community were often arrested for organized begging, but no follow-up action was then taken by the prosecution services. He wondered whether there was a problem with the way in which the law on organized begging was enforced, which might warrant further training in that respect. He would be interested to know more about the social responsibility label referred to in the report.

21. **Mr. Hoscheit** (Luxembourg) said that, from a philosophical and political perspective, the Luxembourg authorities avoided ethnic profiling. There were also practical considerations: the only way to define an ethnic group was through self-identification, but if people did not want to identify themselves as belonging to a particular group, the Government could not insist that they did so. The Roma community, which was not traditionally rooted in the country, was very small. Although the authorities had made every effort to provide mechanisms for complaints, there had been none from that group. Any discrimination that was reported would be acted upon appropriately. Given the strong social support system in the country, it was difficult to imagine that any particular group of people could fall through the net.

22. With regard to the Yeniche, he stressed that they were united by a different linguistic practice, which was in fact facing extinction, but by no means by a separate ethnicity. They were a marginal community that tended to concentrate in one district.

23. There was no confusion between the ILO Convention and the United Nations Convention. Despite the fact that Luxembourg had not ratified the Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families, the standard of protection for all workers in the country went beyond the provisions of that instrument.

24. **Mr. Thyges** (Luxembourg) said that the problem of organized begging had also been raised in the report of the European Commission against Racism and Intolerance. In fact, the provision of the Criminal Code on organized begging dated back to Napoleonic times and was not a recent introduction simply intended to stigmatize the Roma. The police were not targeting the people begging on the street themselves, but were more interested in identifying the criminal groups who exploited them and in fighting against human trafficking.

25. **Ms. Martin** (Luxembourg) said that the social responsibility label covered a range of aspects, including recruitment and promotion practices, governance, equal opportunities and environmental protection. It had been considered that such a label was perhaps too ambitious, and therefore, in line with the European initiative, a Charter of Diversity had been introduced. Within 18 months, 92 companies and associations had signed up to the Charter. Three municipalities, including the City of Luxembourg, had also signed, as had a number of state institutions, such as the National Institute of Statistics and Economic Research. Efforts were under way to attract additional signatories in both the public and private sectors at local and national level.

26. **Mr. Lindgren Alves** said that, in his view, the Committee focused excessively on the Roma, especially in countries where that particular community did not experience any major problems. The Committee should refrain from attempting to separate groups on the basis of their origins and from creating problems where there were none. It appeared that, in Luxembourg, conditions were conducive to full integration.

27. **Mr. Yeung Sik Yuen**, referring to the case in which four persons had been convicted for posting discriminatory comments on a social media site, asked about the responsibility of the website operators in such cases.

28. **Mr. Hoscheit** (Luxembourg) said that, in the case in question, the administrators of the website had immediately deleted the comments and reported them to the authorities, which had helped to identify the authors. Responding to Mr. Lindgren Alves's comments, he said that the State party had never claimed that there were no problems at all with the Roma population, but simply that none had been reported to the authorities either directly through the police, through NGOs or through the press. Children of all origins were treated in the same way. The population was very diverse and classes in primary and secondary schools were in fact mostly made up of children of foreign origin, which did pose linguistic and pedagogical problems. Integration was not necessarily easy or quick, but it did come about. The Government believed that all those who came to live in Luxembourg should be provided with the necessary support, including education and social services, to integrate properly. Foreigners, who made up 44 per cent of the population, played a positive and active role in the life of the country and were represented at all levels of responsibility and in the media. Of course, there were also problems and challenges that had to be addressed in that area.

29. **Mr. Thyges** (Luxembourg) said that the issue of racism in social media was likely to loom larger in the coming years and the Government was committed to tackling it. New measures were being introduced to ensure that people had to identify themselves before being able to comment on websites. There was a new law to ratify the Convention on Cybercrime and its Additional Protocol concerning the criminalization of acts of a racist and xenophobic nature committed through computer systems. Cybercrime would also be introduced into the Criminal Code.

30. **Ms. Martin** (Luxembourg) said that the State party's Bee Secure initiative to encourage safer Internet use was part of the European Insafe network. Activities were organized on topics such as online bullying, with the participation of stakeholders, including social workers and teachers.

31. **Mr. Diaconu**, referring to cases of racially motivated violence or incitement to violence, said that rather than being counted as a separate offence, racial motivation should simply be considered as an aggravating factor and punished as such.

32. **Mr. Bossuyt** said that there were a number of parallels between Luxembourg and his own country, Belgium. He commended the State party on its pragmatic approach to language, which was totally justified.

33. **Mr. Amir** wished to know whether the delegation could envisage that members of parliament in the State party might come from outside Europe. He asked whether Luxembourg might serve as an example to other countries in the fight against xenophobia and racial discrimination.

34. **Mr. Hoscheit** (Luxembourg) said that his country was proud of its national language, which had flourished in recent years thanks to the use of electronic media. Although persons wishing to acquire citizenship were required to have a basic grasp of Luxembourgish, use of the language was encouraged rather than imposed. Lessons, which had proven very popular, were provided both in Luxembourg and in neighbouring regions of other States as a result of significant government investment in the promotion of multilingualism.

35. The percentage of foreign-born residents of Luxembourg who were nationals of a non-European country was relatively small, but there was no obstacle to their participation in political and public life. It was, however, unlikely that persons who were not citizens of Luxembourg would occupy important roles within the Government.

36. Luxembourg offered more official development assistance as a percentage of gross national income than any other country in the world. The agreement to donate that proportion, which stood at 1 per cent, had been retained by the recently elected government. Moreover, Luxembourg had established privileged partnerships with five countries in sub-Saharan Africa, namely Burkina Faso, Cabo Verde, Mali, Niger and Senegal.

37. With regard to acting as a country of asylum, Luxembourg was committed to honouring its responsibilities, particularly towards the most vulnerable Syrian refugees. The first group of refugees would be arriving in the coming weeks and would be given support in Arabic in order to help them settle.

38. **Mr. Thyès** (Luxembourg), responding to questions about the dissolution of associations that violated public order, said that, in 2010, national legislation had been amended to establish the criminal liability of legal persons. In the event of a coincidence of several offences, judges generally handed down the heaviest penalty available. They based decisions on their inner conviction, which was invariably influenced by the existence of racial discrimination as an aggravating circumstance. The Criminal Code provided for strict sanctions, which were imposed in practice, for racially motivated crimes.

39. **Mr. Hoscheit** (Luxembourg) said that the social, cultural and political climate in Luxembourg was not conducive to the establishment of associations with racist agendas. Should problems with such associations arise, the necessary legal provisions were in place to deal with them.

40. **Mr. Thyès** (Luxembourg) said that there had never been a political party in Luxembourg that had spread xenophobia or made an opposition to immigration the main component of its ideology.

41. **Mr. Avtonomov** said that the Committee would continue to encourage all States to accede to the Migrant Workers Convention. It would also advise the State party to ensure that the Committee's concluding observations be published in the three administrative languages of Luxembourg.

42. **Mr. Hoscheit** (Luxembourg) said that, since its independence, Luxembourg had created a model for living that was characterized by multiculturalism and multilingualism. The foreign community in the country, which included citizens from 170 different States, made a significant economic, social and cultural contribution. As a result, the fight against all forms of discrimination and exclusion was not taken lightly, and efforts were made to monitor the constantly evolving situation and respond to any new challenges that might arise.

43. He thanked the Committee for its constructive feedback and said that his delegation remained at the Committee's disposal for any further information it might require.

44. **The Chairperson** thanked the delegation and noted that, of the 7,000 languages spoken around the world, one became extinct every week. The death of a language, moreover, entailed the loss of ancestral knowledge that could never be recovered. It was therefore incumbent on all persons to make an effort to rescue endangered languages and thereby preserve the nations to which those languages belonged.

*The discussion covered in the summary record ended at 12.40 p.m.*