Генеральная Ассамблея

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Совет по правам человека
Пятьдесят шестая сессия
18 июня — 12 июля 2024 года
Пункт 3 повестки дня
Поощрение и защита всех прав человека, гражданских, политических, экономических, социальных и культурных прав, включая право на развитие

Посещение Люксембурга

Доклад Специального докладчика по вопросу о праве каждого человека на наивысший достижимый уровень физического и психического здоровья Тлаленг Мофокенг*

Резюме

Специальный докладчик по вопросу о праве каждого человека на наивысший достижимый уровень физического и психического здоровья Тлаленг Мофокенг посетила Люксембург с 17 по 26 апреля 2023 года.

Специальный докладчик выражает признательность властям за принятие в октябре 2022 года проекта по обеспечению всеобщего охвата населения медицинским обслуживанием, который обеспечивает доступ к медицинской помощи уязвимым группам населения, не имеющим обязательного медицинского страхования. Она подчеркивает, что в соответствии с принципами всеобщего охвата медицинским обслуживанием охрана здоровья, в том числе посредством социального обеспечения, должна быть гарантирована каждому человеку независимо от его профессионального или административного положения. Она отмечает некоторые примеры положительной практики, в том числе сотрудничество между министерствами и ассоциациями и неправительственными организациями. Она приветствует соглашение между правительством и Национальным фондом здравоохранения, вступившее в силу 1 апреля 2023 года, которое обеспечивает доступ к контрацептивам через медицинскую страховку в рамках системы социального обеспечения без возрастных ограничений. Однако она обеспокоена отсутствием национальных механизмов мониторинга и оценки реализации национальных стратегий и планов действий в области здравоохранения.

Специальный докладчик признает усилия, предпринятые для поощрения прав человека и права на здоровье. Она подчеркивает, что качественный и своевременный сбор надлежащим образом дезагрегированных данных необходим для обоснования государственной политики, распределения ресурсов и прогнозирования потребностей.

* Резюме настоящего доклада распространяется на всех официальных языках. Сам доклад, содержащийся в приложении к резюме, распространяется только на том языке, на котором он был представлен, и на французском языке.

Она рекомендует Люксембургу установить междисциплинарную, межсекторальную, межведомственную институциональную ответственность за осуществление национальной стратегии и плана действий по реализации права на здоровье.

Приложение

Доклад Специального докладчика по вопросу о праве каждого человека на наивысший достижимый уровень физического и психического здоровья Тлаленг Мофокенг о посещении Люксембурга

I. Introduction

1. Pursuant to Commission on Human Rights resolution 2002/31 and Human Rights Council resolutions 6/29 and 51/21, in which the Council extended the mandate for three more years, the Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health, Tlaleng Mofokeng, visited Luxembourg, at the invitation of the Government, from 17 to 26 April 2023.

2. During the eight-day visit, the Special Rapporteur met with the Minister of Health, the Minister of Education, Children and Youth, the Minister for Development Cooperation and Humanitarian Affairs and the Ambassador-at-Large for Human Rights. She also met with representatives of the Ministry of Foreign and European Affairs, the National Reception Office, a holding facility for migrants in an irregular situation, the Ministry of Justice, prison authorities, the Ministry of Education, Children and Youth, the Ministry of Research and Higher Education, the Ministry of Health, the Ministry of Social Security, the General Inspectorate of Social Security, the National Institute for Statistics and Economic Studies, the Luxembourg Institute of Health, the Ministry for Digitalisation, the Ministry for Gender Equality and Diversity, the Ministry of Family Affairs, Solidarity, Living Together and Reception of Refugees, the Ministry of Labour, the Ministry of the Economy, the Ministry for Development Cooperation and Humanitarian Affairs and the Ministry of the Environment, Climate and Biodiversity. Moreover, she met with judges working on family and youth matters and with representatives of the Chamber of Deputies, including the presidents of the Parliamentary Committee on Foreign and European Affairs, Cooperation and Trade and the Parliamentary Committee on Health and Social Security.

3. The Special Rapporteur met with representatives of the following government-created independent human rights bodies: the Consultative Human Rights Commission, the Centre for Equal Treatment, the Ombudsperson’s Office and the Ombudsman for Children and Youth. She also met with representatives of civil society organizations, the Luxembourg Committee for the United Nations Children’s Fund and professional associations and with health professionals.

4. She visited the National Reception Office, which works with persons requesting international protection, a holding facility for migrants in an irregular situation, a hospital and a prison, as well as facilities where different civil society actors provide medical support to diverse groups of the population.

5. The Special Rapporteur extends her gratitude to the Government of Luxembourg for inviting her to assess the realization of the right to physical and mental health in the country and wishes to express her appreciation for its important level of support during the visit and for its willingness to engage in constructive discussions related to the right to health. The Special Rapporteur expresses her gratitude to all the different stakeholders and persons who took the time to meet with her, including those who shared their deeply personal stories, which helped her to learn more about the challenges and good practices in Luxembourg related to the framework of availability, accessibility, acceptability and quality of health-care services, as well as those related to the underlying determinants of health.

II. Legal and institutional framework

A. Legal framework

6. The right to health is an inclusive right that extends not only to timely and appropriate health care but also to underlying determinants of health, such as access to safe water and adequate sanitation, an adequate supply of safe food, nutrition and housing, workplace and environmental hygiene and access to education and information related to health, including sexual and reproductive health. Another important aspect is the participation of the population in decision-making related to health at the community, national and international levels.

7. Luxembourg ratified the International Covenant on Economic, Social and Cultural Rights on 18 August 1983 and the Optional Protocol thereto on 3 February 2015. At the time of the Special Rapporteur's visit, article 11 (5) of the Constitution stated that the law regulated the principles of social security, health protection and workers' rights, among others. The draft constitution, which entered into force after the visit of the Special Rapporteur, on 1 July 2023, contained the same provision in its article 34.

8. The Special Rapporteur was informed that the principle of supraconstitutionality of international law has been generally affirmed by judges in Luxembourg and has also been stressed by the Government of Luxembourg to international human rights mechanisms.[1] However, she notes that the Constitution does not stipulate the hierarchy of laws and the primacy of international law over domestic law.

9. While welcoming the reference to the right to health in the draft constitution, the Special Rapporteur is concerned that this right is not presented as an individual and autonomous right, since the text is unclear on whether social security and health protection are linked to the status of workers or not.

10. The right to health is framed by specific laws, including the 2014 law on patients' rights and obligations, amended in 2018 and 2021. There are also specific laws related to the right to health, including the 2009 law on the hospitalization without consent of persons suffering from mental disorders; the 2009 law on euthanasia and assisted suicide; the 2014 law modifying the 1978 law on sexuality information, prevention of clandestine abortion and the regulation of interruption of pregnancy and the Criminal Code; the 2023 law amending the 1973 law on the sale of medicinal substances and the fight against drug addiction, among others; and the 1992 law on health insurance and the health sector.

11. There are two branches of courts in Luxembourg: ordinary courts with jurisdiction in civil and criminal matters, and administrative courts. At the time of the visit, the right to health had not been invoked before or directly enforced by the domestic courts. While noting the strength of the national legal system and the establishment of independent human rights bodies by the Government (the Ombudsperson, the Ombudsman for Children and Youth, the Centre for Equal Treatment and the Consultative Human Rights Commission), the Special Rapporteur notes that the founding frameworks of those bodies do not include the authority to deal with complaints or intervene to present *amicus curiae* briefs in legal processes. In this regard, their work seems mainly reactionary and ad hoc, for individual cases, which does not allow them to contribute to prevention and to fostering accountability and transparency.

B. Institutional framework

12. The health sector is governed mainly by policies established by the Ministry of Health and the Ministry of Family Affairs, Solidarity, Living Together and Reception of Refugees. Although its role is mainly focused on the Government's digital transition rather than on health, in 2018, the Ministry for Digitalization developed the CovidCheck application during the coronavirus disease (COVID-19) pandemic.

[1] HRI/CORE/LUX/2020, para. 121; and A/HRC/WG.6/43/LUX/1, para. 2.

13. In different exchanges with stakeholders, the Special Rapporteur noted that interactions between ministries and departments were based on trust and dependency on individual relationships, a result of Luxembourg being a small country. Across many spheres of Government, European Union conventions, standards and protocols are drawn upon for implementation, and the gap in codification may lead to key decisions being made on a one-off, case-by-case basis, when they require systemic and sustained responses. The Special Rapporteur stresses that the whole population would benefit if the agreements between ministries and government entities could be codified into law to ensure the perennity of good practices.

14. The Special Rapporteur is concerned that there are no internal, national mechanisms for monitoring and evaluating the implementation of national health strategies and action plans; evaluations are carried out by external and international experts.

15. Throughout the visit, she observed the collaborative nature of the relationship between ministries and associations and non-governmental organizations, as some of them take on medical liability as private entities for the larger public health benefit, doing commendable work. The Special Rapporteur underlines that the administrative burden placed on some associations is large, as some depend on volunteers to implement programmes to supplement what the State should offer. She also heard about a case of an organization that allegedly had its funding cut after going public to denounce an alleged human rights violation. The Special Rapporteur is concerned that this could amount to retribution.

16. In relation to data collection and analysis, the Ministry of Social Security and the Ministry of Finances oversee most measures related to health insurance. The Government also relies on the National Institute for Statistics and Economic Studies and the General Inspectorate of Social Security. Surveys are conducted among members of the population who are aged 15 or over and officially domiciled in the country to collect different types of information, in line with the requirements of Eurostat. These include the European health interview survey.[2] However, this collection of data is based on only a sample of the population and does not represent the whole population, as those aged under 15 and those who do not have a domicile in the country are not taken into account.

17. In addition, the Government indicated that, due to the low number of persons belonging to specific groups of the population, it was difficult to reflect them in general surveys, leaving some marginalized groups invisible in data collection and analysis.

18. In this regard, the Special Rapporteur echoes the concerns and related recommendations expressed by the Committee on Economic, Social and Cultural Rights about the lack of systematic collection of disaggregated data by prohibited grounds of discrimination.[3] She stresses that ensuring the quality and timely collection of appropriately disaggregated data is needed, as such data inform public policy, resource allocation and the forecasting of needs in relation to marginalized groups of the population. Data and indicators should be disaggregated on suitable grounds, including those identified in the Sustainable Development Goals, namely age, income, gender, race, ethnicity, migratory status, disability status and geographical location, in order to adopt effective and targeted policies and to monitor the health status of marginalized groups. She also stresses that the disaggregation of health and socioeconomic data according to gender goes beyond the binary of woman and man and is essential for identifying and remedying inequalities in health for all population groups and ages.[4]

[2] See https://ec.europa.eu/eurostat/web/microdata/european-health-interview-survey.

[3] E/C.12/LUX/CO/4, paras. 6 and 7.

[4] A/HRC/50/28, paras. 23–30, 86, 88 and 96.

III. Health-care system

A. Understanding the right to health

19. The Special Rapporteur views the practice of medicine as a tool for the promotion of human rights. She stresses that health-care workers, including those working outside of hospitals, are key to a human-centred system of medical practice that ensures that health facilities, goods and services are accessible to everyone, in particular the most vulnerable and marginalized groups of the population, in law and in practice, without discrimination.

B. Health system

20. Luxembourg spends 5.5 per cent of its gross domestic product on health.[5] Expenditure on health is based on social security, which is funded by contributions made by the beneficiaries and the Government. To have access to public health-care services, beneficiaries must be registered with the social security system.[6]

21. The third-party reimbursement system consists of patients paying for medical consultations and then being reimbursed by the National Health Fund upon presentation of the original paid bills. Under this system, hospital and laboratory fees are settled directly between the provider and the National Health Fund and the patient pays the statutory contribution.[7] Those aged under 18 are also covered by the National Health Fund. For low-income families that cannot afford the third-party system, the Government can provide vouchers for payment in advance. However, the Special Rapporteur was informed that, in practice, not all beneficiaries seem to be fully informed of this option, which could constitute a barrier to them consulting a medical practitioner in a timely manner. In addition, the Special Rapporteur heard allegations that some doctors decide on an ad hoc basis not to receive persons using these vouchers because of the administrative delays in reimbursements, among other inconveniences.

22. At the time of the visit, there were three practising doctors and 11.7 practising nurses per 1,000 persons.[8] The Special Rapporteur was informed that approximately 62 per cent of medical professionals and 49 per cent of doctors were foreigners and/or commuters from abroad. Health practitioners who commute travel between one and four hours every day. Childcare is available during the day, but not in the evening. Both factors have an impact on families, in particular single-parent families, which was worsened during the pandemic.

23. Since 2019, the University of Luxembourg has offered only a bachelor's degree in medical studies; no studies in medicine at the master's degree level are available. Therefore, students who wish to study medicine must study in other countries, such as France or Germany. On several occasions, the Special Rapporteur heard about the dependency of the health system on foreign-trained, cross-border medical staff because of the lack of local medical staff, including for mental health care. Doctors who studied in the European Union can benefit from certification of their studies. The Special Rapporteur regrets that no procedure for equivalence from other countries outside the European Union is available.

24. The Special Rapporteur emphasizes the importance of having employee health and wellness programmes designed to benefit the professional and personal development of health-care workers, such as continued medical education programmes and mental health and social programmes. In this regard, the Special Rapporteur was informed that, during the COVID-19 pandemic, health workers were provided with psychosocial services as part of a national health programme.

25. She stresses that a successful health system is scientifically and medically appropriate, well administered and of quality. She points out that the outcomes require an investment in

[5] See https://www.oecd.org/luxembourg/health-at-a-glance-Luxembourg-EN.pdf.
[6] See https://sante.public.lu/fr/publications/s/systeme-de-sante-2021-brochure-fr-de-en-pt.html.
[7] Ibid.
[8] See https://www.oecd.org/luxembourg/health-at-a-glance-Luxembourg-EN.pdf.

skilled medical personnel, scientifically approved medicines, allied health services and hospital equipment. While this is not unique to the health sector, the Special Rapporteur stresses that the impact on the health sector became apparent as the emergency conditions of the COVID-19 pandemic emerged, bringing more demands for increased human resources to respond to the crisis.

26. The Special Rapporteur was informed that the ambulance services, once run by the Ministry of Social Security, were being privatized. The cost of transportation was sometimes an inhibitory factor to care. At the time of her visit, a draft law on patient transportation was being discussed, which covered emergency response with capacity for basic and advanced care, as well as patient transfer to, from and within other institutions for both inpatient and outpatient care.

27. In addition to the national health system, the Special Rapporteur commends non-governmental organizations, as many of them offer psychosocial and medical support, provide information to those in difficult phases of life due to situations such as migration and to groups such as older persons, children and people who use drugs and also provide vouchers for personal care and menstrual products.

C. Sexual and reproductive health rights

28. The Special Rapporteur commends the law on voluntary interruption of pregnancy (revised in 2014), which allows for the removal of abortion from the Criminal Code. She was pleased to learn that, on 1 April 2023, an agreement between the Government and the National Health Fund started being implemented. This agreement ensures access to contraceptives for persons with compulsory health insurance, with no age limit. She notes that family planning services, including emergency contraception and safe abortion services, are largely accessible in the country. However, she regrets that statistics on abortion are not available.

29. Planning Familial is a civil society entity, mainly funded by the Ministry of Health. Its objective is to promote and provide advice and assistance on sexual and reproductive health rights to the population. It can also provide abortions.[9] It offers access to its services free of charge and has offices in three different cities. It is composed of a multidisciplinary team that includes medical practitioners, psychologists and social workers. It works in close collaboration with the Information and Prevention Hub, which provides information and raises awareness about mental health.[10] The Special Rapporteur was informed that this entity provides interpreters, free of charge, for migrants.

30. While noting the important work that civil society organizations undertake, the Special Rapporteur is concerned by the reliance on associations in the delivery of sexual and reproductive care and information. She also received reports of persons who had requested a safe abortion being referred for a mental health review and reports of doctors imposing waiting periods before providing care. Such practices are not in line with up-to date medical protocols and international standards.

D. Mental health

31. The Special Rapporteur welcomes the fact that, that since 1 February 2023, psychotherapy is reimbursed at 100 per cent for children and adolescents[11] and 70 per cent for adults under the third-party payment system.

[9] See https://pfl.lu.
[10] See http://www.llhm.lu.
[11] See also A/HRC/WG.6/43/LUX/1.

32. Mental health remains an area of concern for both the population and the health system. Unmet needs for mental health care are below the European Union average, but represent one fifth of all unmet needs for health care.[12]

33. The prevention of mental health problems and the promotion of mental well-being in adolescence have emerged as important areas. Domestic abuse, child abuse, substance and drug use and living in precarious social circumstances have been identified as leading causes of distress and of conflict with the law.

34. The Special Rapporteur was pleased to learn that a draft national plan for mental health was being discussed at the time of the visit. She notes that the implementation of the draft national plan during the period 2024–2028 will require synchronization with other legal frameworks and programmes across ministries, effective stakeholder engagement, including by rights holders, the resourcing of specialist providers and paying attention to the administrative complexities placed on people who may not be well enough to navigate the system. She stresses that entities working on children's rights and children themselves must be meaningfully engaged during the development and implementation of national plans.

35. The Special Rapporteur emphasizes the underfunding of mental health services and highlights the scarcity of specialists catering to the mental health needs of youth and children, in particular those with disabilities. Furthermore, there is a deficiency in infrastructure, leading to situations where adolescents are sometimes referred to other countries as the result of a lack of availability of the necessary treatment, in particular for mental health.

36. There is a lack of statistics available in the country on issues of mental health and violence specifically affecting children and youth. At the time of the visit, the Special Rapporteur noted that the Ministry of Health was undertaking a mapping exercise on mental health, with the collaboration of associations with expertise in that field.

37. The Special Rapporteur was told that, in some instances, judicial involvement with children in conflict with the law or those in closed mental health-care facilities often led to parental rights being transferred to the director of the relevant facility; however, the facility directors were often not trained in such guardianship.

38. The Special Rapporteur underscores that migrants, those with irregular migration status, refugees and asylum-seekers, who already experience obstacles with accessibility, also lack access to quality specialized services for issues related to trauma.

39. The Special Rapporteur heard from different stakeholders and rights holders at different levels of society that, due to the existence of various administrative and judicial powers, difficulties existed in coordinating processes between ministries, which impeded the urgent, holistic approach that was required for mental health.

E. Maternal health

40. Between 2017 and 2019, caesareans accounted for an average of 30.5 per cent of births,[13] which remains higher than the rate recommended by the World Health Organization (WHO).[14] It was brought to the attention of the Special Rapporteur that data on births were collected differently by the Ministry of Health (all births in-country) and the National Institute of Statistics (including births of citizens abroad), thereby creating a discrepancy.

41. The Special Rapporteur was informed that, among the four hospitals in the country, only one was baby-friendly. Between 2017 and 2021, neonatal bed occupancy reached between 90 and 100 per cent.[15] There is one intensive care facility in the country and when it has no capacity, children are sent abroad, sometimes 300 km away. The Special Rapporteur

[12] Organisation for Economic Co-operation and Development and European Observatory on Health Systems and Policies, *Luxembourg: Country Health Profile 2023* (Paris and Brussels, 2023), p. 3.

[13] See https://sante.public.lu/fr/publications/s/surveillance-sante-perinatale-2017-2019.html.

[14] WHO, *WHO Recommendations: Non-Clinical Interventions to Reduce Unnecessary Caesarean Sections* (Geneva, 2018), p. 12.

[15] See https://dei-lenk.lu/wp-content/uploads/2021/12/QPne%CC%81onat.pdf.

emphasizes that such transfers may cause a separation of the mother-child dyad, as well as health risks and stress.

42. Article L.336-3 of the Labour Code specifies that, upon request, a breastfeeding woman must be granted breastfeeding time of 90 minutes per day and is entitled to full pay. The Special Rapporteur was informed that breastfeeding does not yet benefit from the necessary support and protection in the country, as recommended by WHO. In this regard, it was brought to her attention that there was weak protection against the marketing of breast milk substitutes. The Special Rapporteur emphasizes that health must prevail over marketing purposes and commercial interests, as the early cessation of breastfeeding has negative implications for both the woman and the child.

43. The Special Rapporteur was informed that breastfeeding did not seem to be fully supported and that doctors and nurses seemed to promote formula use rather than breastfeeding. Between 2017 and 2019, the rate of exclusive breastfeeding upon discharge from hospital after giving birth decreased from 77.7 per cent to 73.9 per cent. The Special Rapporteur recalls the Global Strategy for Infant and Young Child Feeding, endorsed by the fifty-fifth World Health Assembly, which provides a basis for public health initiatives to protect, promote and support breastfeeding.

44. The Special Rapporteur was also informed about the lack of paediatricians, nurses and paediatric nurses to respond to the current needs of the population and the fact that, on some occasions, pregnant women went to other countries for maternal and newborn care.

F. Education

45. In 2019, the Ministry of Health developed a national programme on the promotion of emotional and sexual health.[16] The Special Rapporteur was informed that sexuality education was part of the school curricula. She welcomes the national programme, the guidelines for the general public and the resources developed by the Ministry of Health and provided to teachers for sexuality education.

46. The Special Rapporteur was pleased to learn about several innovative initiatives supporting sexual and reproductive health rights and mental health during the pandemic, in both school and out-of-school contexts. She notes the value of youth-centred digital health interventions to enable young people to address the many health challenges they face as they transition to adulthood.

47. The Special Rapporteur was pleased to learn that the Ministry of Education, Children and Youth was planning the launch of a publication for teachers, focused on the rights of transgender people, including name changes and gender markers, as well as a focus on policies and campaigns, after her visit.

G. Universal health-care coverage

48. The Special Rapporteur commends the authorities for the project adopted in October 2022 on universal health-care coverage, aimed at ensuring access to health care for vulnerable groups of the population who do not have compulsory health insurance. She welcomes the pilot project launched by the Ministry of Social Security and the Ministry of Health on universal health coverage.[17]

49. The Special Rapporteur was pleased to learn about the Government's Coalition Agreement 2018–2023, adopted in 2018, which includes a specific section related to health,[18] in which the values of universality, access to quality of health care equity and solidarity are

[16] See https://men.public.lu/content/dam/men/catalogue-publications/sante-bien-etre/informations-generales/programme-national-sante-affective-sexuelle-fr.pdf.

[17] See https://sante.public.lu/dam-assets/fr/publications/r/rapport-activite-ministere-2022/rapport-ministere-de-la-sante-2022.pdf.

[18] See https://gouvernement.lu/dam-assets/documents/actualites/2018/12-decembre/Accord-de-coalition-2018-2023.pdf.

stressed and the acceleration of digital health integration and universal access to contraceptives and reimbursement thereof without age or method limits are foreseen.

50. The administrative requirement of a domicile to access health services has a negative impact on socially disadvantaged groups. Coupled with the housing crisis that the country is facing, it adds an additional burden to those in need of residency to be able to be covered by the health system.

51. The Special Rapporteur underscores that, in line with the principles of universal health coverage, health protection, including through social security, must be guaranteed to everyone, regardless of their professional or administrative situation. She stresses that true universal health coverage must be free from administrative entanglements to yield equitable results.

52. The Special Rapporteur emphasizes that the strengthening of primary care and a home- and community-based care network requires paying sufficient attention to underlying determinants of health and how they intersect, for sustainable and thriving communities.

53. The Special Rapporteur stresses that physical and economic accessibility, in particular for minorities, children, adolescents, older persons, persons with disabilities and those seeking international protection, is important.

54. Furthermore, the system of disbursements creates a financial barrier to accessing some services, as it makes assumptions about individuals' ability to pre-pay for their portion. Even for citizens with jobs, and in particular for the working poor, this first step means that they may need to save for a few months, causing delays in seeking care and pushing those in precarious situations even further to the margins.

H. Harm reduction

55. The Special Rapporteur commends the work undertaken by civil society in providing support to people who use drugs. A structure created in 2003, meant to be temporary, continues to receive between 120 and 150 persons, aged between 18 and 65, per day. According to civil society organizations, many of those persons are not covered by the National Health Fund.

56. The Special Rapporteur notes the existence of supervised drug use rooms and syringe- and needle-exchange programmes, among other harm reduction programmes.

I. COVID-19

57. The COVID-19 pandemic underscored the health impacts of social inequalities. In many parts of the world, emergency measures were adopted. The same occurred in Luxembourg, where there was a need for rapid policy changes as the pandemic evolved.

58. The Special Rapporteur was told that the COVID-19 pandemic saw many children and young people experience worsening or new mental health issues. Anxiety, depression and alcohol and drug use disorders make up the bulk of the mental health issues prevalent in Luxembourg.

59. The Special Rapporteur heard about the case of four older persons who were unemployed and had chronic diseases living on the street for several years. The Special Rapporteur is concerned about reports that assisted housing is not always accessible and that many who need support do not qualify for it under current guidelines. This situation worsened during the COVID-19 pandemic for those with a combination of issues such as mental health, social issues, substance use disorders and disability.

60. During the pandemic, additional health practitioners, mostly from Belgium, France and Germany, were hired and could stay in Luxembourg instead of commuting. The procurement of vaccines was done through the European Commission. The Special Rapporteur welcomes the efforts made by the Government to encourage people to be

vaccinated, including the organization of weekly Facebook live sessions to reply to questions related to the vaccine.

J. Gender-based violence

61. Protection from all forms of violence is a cross-cutting issue in the realization of the right to health. Luxembourg signed the Council of Europe Convention on Preventing and Combating Violence against Women and Domestic Violence in May 2011, and it was adopted into national law on 20 July 2018. However, the Special Rapporteur was informed that, in practice, fear still existed among migrant women about reporting abuse, due to the perception that they could be deported to their country of origin.

62. The Special Rapporteur welcomes the amendment to the law on domestic violence of 8 September 2003, made through the adoption of the 2018 law, to include the obligation for specialized services to provide support to minors who are direct or indirect victims of domestic violence. Nevertheless, although the amended law on domestic violence incorporates aggravating circumstances for offences committed in the context of domestic violence and the Criminal Code provides for an aggravating circumstance of hatred in the commission of certain crimes and offences, including gender-related hatred, the Special Rapporteur is concerned that femicide is not criminalized.

63. The Special Rapporteur was informed about increasing numbers of children who are victims of domestic violence. While welcoming the advancements in domestic violence responses, she is concerned about the impact of violence on children, as well as about the lack of State-led statistics in relation to children who are victims of violence and how their needs are met in the short and long terms.

64. The Special Rapporteur is concerned that, in some cases, offenders receive a warning if violence is reported for the first time, which can put victims at risk and in a situation that is detrimental to their mental health, due to the stress that they might experience.

65. The Special Rapporteur commends the launch of a platform for victims and perpetrators of domestic violence and an application for victims of such violence, as well as the launch of a helpline during the COVID-19 pandemic.

66. The Special Rapporteur also commends the launch of the National Action Plan for Gender Equality between Women and Men in July 2020 by the Ministry for Gender Equality and Diversity, as well as the launch of the statistical data-collection tool on gender equality in 2021.

IV. Specific groups of the population

67. Articles 2 (2) and 3 of the International Covenant on Economic, Social and Cultural Rights proscribe any discrimination in access to health care and underlying determinants of health, as well as to means and entitlements for their procurement, on the grounds of race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth, sexual orientation and civil, political, social or other status that has the effect of nullifying or impairing the equal enjoyment or exercise of the right to health.[19]

68. Article 15 (2) of the draft constitution of Luxembourg, which entered into force on 1 July 2023, protects against discrimination on the basis of personal situation or circumstances and the Criminal Code sets out in a more comprehensive manner grounds for discrimination that can be punishable. These include origin, skin colour, sex, sexual orientation, change of sex, gender identity, family situation, age, health status and disability status (art. 454). However, the draft constitution also includes a provision on the equality of Luxembourgers before the law and another provision relating to non-Luxembourgers, rather than enshrining the principle of equality of all persons.

[19] Committee on Economic, Social and Cultural Rights, general comment No. 14 (2000), para. 18.

69. Obstacles limiting access to justice for persons seeking to file a complaint of discrimination and the lack of resources and competence granted to the Centre for Equal Treatment to address cases of racial discrimination were brought to the attention of the Special Rapporteur.

A. Children

70. The 1992 child protection law and the amended 2008 law on child and family assistance are applicable to children who are in danger or in conflict with the law. At the time of the Special Rapporteur's visit, there was no juvenile criminal law applicable to children in conflict with the law. In addition, under this legislation model, which was still in place at the time of the visit, parental authority is automatically and fully transferred to the institution or foster family in the event of a court-ordered placement.

71. Several stakeholders indicated that the measures currently in place in the country for children and young people in conflict with the law or with serious mental health problems were not suited to their needs. For example, some children in conflict with the law remained in closed facilities, such as the secure unit at the State Socio-Educational Centre, with limited mental health support: one full-time and one part-time psychologist and one child psychiatrist visited them for half a day every two weeks. In addition, the Special Rapporteur was informed that children in conflict with the law were also admitted to the neuro-psychological hospital; however, this facility was facing a lack of capacity at the time of the visit and did not have sufficient beds to receive more children.

72. The Special Rapporteur is very concerned that parents lose their parental rights when a child in conflict with the law is placed in the secure unit at the State Socio-Educational Centre or in a foster family or is admitted to the neuro-psychological hospital and that parental authority is transferred to the director of the psychiatric institution. She was also concerned about the reported lack of therapeutic structures for minors in foster care. She learned about cases where children were reportedly placed in foster care in another country, which prevented social workers in Luxembourg from working on those cases as the responsibility was delegated to social workers in the country concerned.

73. The Special Rapporteur is concerned that the role of the Ombudsperson's Office and the Ombudsman for Children and Youth in legal proceedings relating to children remains limited and that, despite the interest of several civil society organizations in providing expertise, including in the development of legislations and policies, their views do not seem to be considered. She is also concerned that many associations might not be seen to be fully independent, as most of their funding comes from the Government.

74. The Special Rapporteur regrets the lack of disaggregated data on sexual abuse affecting children. At the time of her visit, a law was soon to be adopted containing legal provisions on addressing the sexual abuse and sexual exploitation of minors. The Special Rapporteur is pleased that the scope of the law extends to the digital space.

B. Migrants and asylum-seekers

75. Luxembourg recognizes two different statuses of international protection: refugee and subsidiary protection. Persons with the latter status are granted a five-year permit of international protection. In addition, there is temporary protection, which is decided by the Government or the European Union in cases of influxes of large amounts of people who have had to leave their country suddenly and are unable to return.[20]

76. The temporary protection model was designed in 2018 and was intended to be the first step for persons requesting international protection. The Special Rapporteur was informed that it had had to be adapted due to the armed conflict in Ukraine. In this regard, as of March 2022, an expeditious and human-centred programme for those arriving from Ukraine and

[20] See https://guichet.public.lu/fr/citoyens/immigration/cas-specifiques/protection-internationale/demande-protection-internationale.html.

seeking temporary protection resulted in a streamlined process, with shorter waiting periods and subsequent social integration and access to an address, bank accounts, schools and employment. At the time of the Special Rapporteur's visit, persons from Ukraine who had been granted temporary protection were allowed to stay until March 2024 (pending a review of the situation).

77. The National Reception Office receives persons requesting international protection and beneficiaries of temporary protection. The Special Rapporteur was informed that the Office facilitates medical examinations, including of persons in a vulnerable situation, and referrals to psychologists, with the support of social workers and interpreters, where required. After a request for international protection has been registered, the person is covered by the general health-care system, which is funded by the Office.

78. Persons living in the initial reception centres run by the National Reception Office have an official address, which allows them to access health services. At the time of the visit, there were three initial reception centres. The monitoring of and social supervision in the centres was undertaken by the Red Cross, in parallel with staff from the Office.

79. The initial reception centres can host a total of 340 persons. According to the National Reception Office, at the time of the visit, 320 persons were living in the centres, approximately 50 per cent of whom had already been granted international protection. Although the centres are in theory reserved for persons who have recently arrived in the country, most people remain there for up to one year owing to the housing crisis and the challenges faced by those granted international protection. The Special Rapporteur regrets that there were no data on LGBTIQA+ persons requesting international protection and stresses that identifying as LGBTIQA+ is another reason recognized at the international level for requesting international protection.

80. The Special Rapporteur observed that, in one of the initial reception centres, staff from the National Reception Office and the Red Cross were working on the same floor, with the objective of communicating more effectively. The Office provides support, together with the Red Cross, for the opening of bank accounts. The Special Rapporteur was informed that, after six months, asylum-seekers could request authorization to work.

81. The Special Rapporteur was informed that the number of children requesting international protection had increased over the previous few years, and that 603 minors had arrived in 2022 with their parents, fleeing the armed conflict in Ukraine and needing psychological support. Although interpreters are available for persons requesting international protection, it was brought to the attention of the Special Rapporteur that the infrastructure and staffing were insufficient, including a lack of staff who speak the same language as the persons concerned.

82. The holding facility for migrants in an irregular situation houses those who have received a removal order. Although the centre mainly holds men, the Special Rapporteur was informed that it could host women and children, for a maximum period of seven days. She was also informed that doctors visited the centre twice a week for consultations, a psychiatrist visited once a week and a dentist visited once a month, or upon request for an urgent matter.

83. It was brought to the attention of the Special Rapporteur that approximately 3,000–5,000 persons working in the informal sector live in Luxembourg without legal status, which poses a challenge for them in terms of accessing health-care services.

84. Although the Special Rapporteur commends Luxembourg for adapting the national health insurance system to include asylum-seekers and refugees, she regrets that, in practice, universal health coverage has not yet been fully achieved (see paras. 48–54 above).

85. It was brought to the attention of the Special Rapporteur that there a lack of knowledge about female genital mutilation and that no screening for new cases of female genital mutilation took place in the country.

C. Persons deprived of liberty

86. The Special Rapporteur commends article 26 (1) of the 2018 law on reforming the prison administration, which states that all detainees should have an adequate and appropriate right to health care best suited to their health status. It also states that all detainees should benefit from health care equivalent to those not in detention. She underscores that the organization of health care provided to detainees would benefit from clear written agreements, rather than conventions to be negotiated between the Ministry of Justice and the service providers, as indicated in article 26 (3) of the law.

87. The 2018 reform of the penitentiary system allowed the inclusion of doctors and nurses in the prison staff, rather than having a mixed system under which the prison administration is responsible for the health of detainees. On 20 April 2023, the Penitentiary Centre of Luxembourg held 353 persons deprived of their liberty (333 men and 20 women), of whom 312 (296 men and 16 women) had been convicted.

88. Pregnant women in detention are taken to hospital to deliver their babies and the police (not the prison authorities) are responsible for transfer to and from hospital. The situation of women with children varies if they are in pretrial detention: the sentencing judge can decide to place such women in a semi-closed facility or in larger cells that are separated from other detainees. The Special Rapporteur was informed that, although the number of prisoners being sent to prison was slowing down, the number of prison spaces was insufficient.

D. LGBTIQA+ persons

89. The Ministry of Family Affairs, Solidarity, Living Together and Reception of Refugees oversees issues related to lesbian, gay, bisexual, transgender and intersex persons. The Special Rapporteur was informed about several initiatives taken by the Ministry with medical practitioners to try to change perceptions and stereotypes in relation to this group of the population.

90. The Special Rapporteur welcomes the first National Action Plan to Promote the Rights of Lesbian, Gay, Bisexual, Transgender and Intersex Persons, launched in 2018, which includes a specific section on health. An interministerial committee was established for its implementation. She considers that the Action Plan constitutes an important achievement in tackling discrimination based on sexual orientation and gender identity. She welcomes that the Action Plan includes actions prohibiting the “normalization” of non-vital medical treatments performed without the free and informed consent of intersex persons and the cessation of their reimbursement by the State. She was informed by multiple stakeholders that the majority of the actions adopted in the Action Plan were still at risk of being siloed in implementation, with an open-ended timeline for their implementation.

91. The Ministry of Family Affairs, Solidarity, Living Together and Reception of Refugees provides financial support to several civil society organizations working on LGBTIQA+ rights. The Special Rapporteur welcomes that, after realizing that there were not sufficient safe spaces, the Ministry negotiated with a civil society organization to open an additional centre in May 2023.

92. The Special Rapporteur was informed that, to begin a hormonal transition, transgender persons were requested to attend sessions with a psychiatrist for a year but, due to the lack of trained psychiatrists the country, those guidelines were not implemented. Furthermore, the Special Rapporteur was informed that there was a lack of endocrinologists, making it difficult for persons transitioning to obtain an appointment. Some people felt that the obstacles brought about dysphoria and new mental health issues, which in turn further stigmatized them. The Special Rapporteur was informed that the Ministry of Family Affairs, Solidarity, Living Together and Reception of Refugees had elaborated a plan related to transgender health; however, she observed that there were no clear national clinical guidelines in relation to transgender persons, despite clinical management advancements in this area around the world.

93. The Special Rapporteur is concerned that, at the time of her visit, conversion therapies were still not forbidden by law.

94. The Special Rapporteur commends the work undertaken by civil society in relation to LGBTIQA+ persons. She was pleased to learn that a civil society organization had launched a course on intersexuality for the bachelor's degree in medicine.

E. Older persons

95. The Ministry of Family Affairs, Solidarity, Living Together and Reception of Refugees oversees issues related to older persons. The Special Rapporteur welcomes that the Government considers this issue as a priority and has undertaken specific initiatives in this regard. The law regulating the relations between the State and organizations working in the social, family and therapeutic fields, amended in 1998, is the legal framework applied to services provided to older persons, which are catalogued in one single document.[21] The Special Rapporteur regrets that, at the time of her visit, there was no legal mandate for those structures.

96. The Special Rapporteur highlights the 2009 law on euthanasia and assisted suicide, and she was pleased to learn that the Government was working on informing the population about the issue.

97. At the time of the visit, there were 16 private and 1 public housing facilities for older persons. The Ministry of Family Affairs, Solidarity, Living Together and Reception of Refugees provides subsidies to older persons living in specialized structures who do not have the personal resources to cover the cost of the accommodation and their personal needs. However, while taking note of the construction of additional facilities, the Special Rapporteur was concerned to learn of a case in which it had been difficult to find a bed in a housing facility for an ill person living at home. The Special Rapporteur was also informed about the lack of training on palliative care of staff working in housing facilities for older persons.

98. The Special Rapporteur was pleased to learn about the establishments of specific websites (www.luxsenior.lu and www.demence.lu) and a hotline for older persons and the objective of the Government to prevent the isolation of older persons and encourage them to remain socially connected and active.

F. Persons with disabilities

99. The Ministry of Family Affairs, Solidarity, Living Together and Reception of Refugees oversees issues related to persons with disabilities. The Special Rapporteur welcomes the adoption in 2019 of the National Action Plan on the Implementation of the Convention on the Rights of Persons with Disabilities for the period 2019–2024, which includes a specific category on health. She was informed that the Government had contracted an external evaluator that made a series of midterm recommendations in 2022 regarding the measures put in place following the adoption of the Action Plan, some of which were being implemented.

100. The Special Rapporteur welcomes the law of 7 January 2022 on the accessibility to all of all places open to the public, public roads and collective housing buildings. This is a crucial aspect of the policy for persons with disabilities. Its objective is to ensure the inclusion of persons with disabilities in society under equal conditions, enabling them to lead as independent a life as possible. Under the law, 10 per cent of the number of dwellings in a new-build multifamily building must be designed and laid out to be accessible for persons with reduced mobility. This requirement is aimed at achieving a gradual increase in the number of dwellings that can be adapted to the needs of persons with disabilities. The scope of application of the previous law has been extended and accessibility requirements are no longer limited to places open to the public in the public domain, but must now be applied to any place for collective, public or private use.

[21] See https://mfsva.gouvernement.lu/fr/publications/annuaire-releve/PA.html.

101. Although a financial package is allocated for the assistance for and the care of dependent persons in the Social Security Code, as well as technical aids and home adaptations, it was brought to the attention of the Special Rapporteur that the system does not take into account some conditions, such as multiple sclerosis, that require lifelong assistance, as the level of financial support provided is not adequate.

102. The Special Rapporteur is concerned about the lack of data on persons with disabilities. She was informed by stakeholders that this group of the population was not always taken into account in times of crisis. For example, several campaigns during the COVID-19 pandemic were not accessible for persons with a hearing impairment or blind persons.

103. The Special Rapporteur stresses the importance of respecting the right to autonomy and the right to live in dignity of persons with disabilities and those needing assistance.

G. Persons living in poverty

104. According to a study undertaken by the National Institute of Statistics and Economic Studies, in 2023, the forecast at-risk-of-poverty rate was down slightly on the previous year, from 18.1 per cent to 17.2 per cent, on the basis of 2022 incomes.[22] According to the same study, in 2022, 12.9 per cent of workers in Luxembourg were at risk of poverty and more than half of workers in poverty were employed in four specific sectors, one of which was the health sector.

105. Since 1 January 2023, the minimum wage of unskilled and skilled workers has been increased. While welcoming this increase, the Special Rapporteur is concerned about the increase in the risk of poverty and reports received indicating a rise in the number of the working poor and generalized inequality in the country.

106. The Special Rapporteur stresses that persons living in poverty or at risk of poverty might not focus on preventive health care or might receive health care later because they prioritize other issues, such as access to food and work. In this regard, she was informed that a civil society organization had been offering influenza vaccinations, which were paid for by donations, since 2018.

107. The Special Rapporteur commends civil society for its work in trying to close the gap, through various programmes, in reaching the universal health coverage.

V. International cooperation

108. The country's international cooperation is focused mainly on access to basic social services, humanitarian assistance and inclusive finance. In this regard, the Special Rapporteur welcomes the adoption of a new humanitarian action strategy[23] to respond to multidimensional crises, including health crises and pandemics. She welcomes the fact that mental health and psychosocial support are included among the cross-cutting priorities.

109. The Special Rapporteur commends the Government for contributing more than 15 per cent of its official development assistance fund to the health sector, and for providing 1 per cent of its national gross national income to development assistance.[24] She also commends the Government for being an essential supporter of the Global Fund to Fight AIDS, Tuberculosis and Malaria, contributing over 59.75 million euros and being one of its largest donors per capita. She further commends Luxembourg for being a leader in the fight against HIV, as one of the top donors of the Joint United Nations Programme on HIV/AIDS.[25]

[22] See https://statistiques.public.lu/fr/publications/series/analyses/2023/analyses-02-231.html.

[23] See https://cooperation.gouvernement.lu/fr/publications/brochure-livre/minist-affaires-etrangeres-europeennes/dir-cooperation-action-humanitaire/strategies-et-orientation/luxembourgs-humanitarian-action-strategy.html.

[24] See https://www.who.int/about/funding/contributors/lux.

[25] See https://www.unaids.org/en/keywords/luxembourg.

110. The Special Rapporteur was pleased to learn that Luxembourg facilitates access to essential health facilities, goods and services in other countries, including through the provision of health-care worker training, medical supplies and humanitarian aid. In this regard, she learned about a project of a floating hospital run by a non-governmental organization in Bangladesh, supported by Luxembourg, that mainly undertakes vaccination campaigns.[26] She also learned about a project in Mongolia aimed at controlling cardiovascular diseases.[27]

VI. Good practices

111. The Special Rapporteur commends the exemplary work undertaken by the interministerial committee in charge of sustainable development and the 2030 Agenda for Sustainable Development at the national level and its understanding of the application of human rights, intersecting issues and the use of indicators. Under the 2004 law on the coordination of national sustainable development policy, the National Plan for Sustainable Development was established in 2018, which contains 10 priorities, the second of which relates to health. The law also provides for a national report on the implementation of sustainable development, indicators on sustainable development and the establishment of the Interdepartmental Commission on Sustainable Development.[28]

112. The Special Rapporteur welcomes the fact that the COVID-19 pandemic opened the path for telemedicine. Telemedicine was first used in primary health care, through the creation of COVID-19 consultation centres, which provided support to patients before they went to hospital.

113. The Ministry of Family Affairs, Solidarity, Living Together and Reception of Refugees issued six different videos of persons with disabilities, with the objective of combating stereotypes against persons with disabilities in society.

114. The Special Rapporteur welcomes the 2018 Act on Changes of Sex Designation and Forename(s) in Civil Status Records, amending the Civil Code, which makes it possible, by means of an administrative procedure, to legally change gender identity and names, thereby upholding the principle of self-determination.

115. The Ministry of Digitalization provides subsidies to initiatives promoting digital inclusion, with the purpose of closing the digital gap. The subsidies are primarily provided to initiatives focused on, among others, older persons or persons with disabilities.

116. In early 2023, a campaign on menstruation was launched with the objective of breaking the taboo over the subject in high schools. The Ministry of Education, Children and Youth has also been supporting initiatives to provide free hygiene products in high schools. At the time of the visit, there were more than 100 machines dispensing these products in high schools.

117. The Special Rapporteur visited the Château de Colpach Rehabilitation Centre, at which patients are assisted in their physical, physiological and psychological recovery. The goal of the Luxembourg Red Cross is to help people with special health needs lead an independent and dignified life. It has been doing so for many years.

118. The Special Rapporteur notes that a fair amount of printed materials in Luxembourg is translated into different languages. She stresses that language accessibility must remain a priority in all public services, recalling that information is a right to when it comes to choosing and deciding upon health care and for informed consent by all members of society,

[26] See https://www.eib.org/en/press/news/eib-luxembourg-and-bangladesh-join-forces-to-combat-coronavirus-and-boost-country-wide-covid-19-immunization-in-bangladesh.

[27] See https://luxdev.lu/en/activities/country/MON.

[28] See https://environnement.public.lu/fr/developpement-durable.html#:~:text=La%20Commission%20interd%C3%A9partementale%20du%20d%C3%A9veloppement,en%20%C5%93uvre%20du%20d%C3%A9veloppement%20durable.

including marginalized groups. She also stresses that it is key for effective communication, trust and respect between health-care providers and patients.

119. The Special Rapporteur welcomes the introduction by the Ministry of Justice and the Ministry of Education, Children and Youth, on 29 March 2022, of a youth protection reform, which includes review of the legislation on children in conflict with the law, placing emphasis on crime prevention, the protection of youth and using deprivation of liberty as the last resort.[29] The review of the legislation, which was in discussion at the time of the Special Rapporteur's visit, foresees replacing the 1992 law on youth protection and the amended 2008 law on child and family assistance with three different laws: a law to provide help, support and protection to minors, young adults and their families (draft law No. 7994); a law introducing juvenile criminal law (draft law No. 7991); and a law on the rights of minor victims and witnesses in criminal proceedings.[30]

120. At the time of the Special Rapporteur's visit, the Ministry for Gender Equality and Diversity was running a campaign to provide information on forms of violence and the support services available to victims.[31] The Special Rapporteur commends the role of civil society organizations in assisting survivors of violence, as they play an important role in supplementing the work of the Government on issues related to family and violence. She implores all to work together to develop a comprehensive, long-term strategy to prevent violence.

121. The Special Rapporteur is committed to promoting the full realization of the right to health through continued cooperation and technical expertise and remains ready to provide the State with relevant support.

VII. Conclusions and recommendations

122. **The Special Rapporteur notes that Luxembourg has a strong will to advance the human rights agenda. She recalls that States parties to the International Covenant on Economic, Social and Cultural Rights have three types or levels of obligations in terms of the right to health: to respect, to protect and to fulfil the full realization of the right to health. In this regard, all members of society have responsibilities regarding the realization of the right to health.**

123. **The Special Rapporteur reiterates that the formulation of the right to health must be understood and expressed in law as an inclusive right. She stresses that the right to health should be analysed from a broader perspective than the right to receive timely and appropriate health care, but that it encompasses the right to underlying determinants of health. The latter is also interconnected with other rights, including the rights to work, education, housing, information, freedom and security of the person, a healthy environment, equality and non-discrimination and bodily autonomy.**

124. **Accountability, including its components monitoring, review and redress, is essential for the right to health to be more than an aspiration. Accountability reveals where progress has been made and where it has not, allows duty bearers to explain what they have done and make adjustments, and provides an opportunity for rights holders to engage with duty bearers in the promotion and protection of their rights and to seek redress where violations have occurred.**

125. **In this regard, the Special Rapporteur makes the following recommendations to the Government and other relevant stakeholders:**

(a) **Moving forward, there must be a national health strategy and plan of action involving all the relevant stakeholders that are currently working on issues**

[29] See https://gouvernement.lu/dam-assets/documents/actualites/2022/03-mars/29-droit-penal-mineurs/PPP-Protection-de-la-jeunesse.pdf; and https://gouvernement.lu/dam-assets/documents/actualites/2022/03-mars/29-droit-penal-mineurs/PPP-Droit-penal-pour-mineurs.pdf.

[30] See https://men.public.lu/dam-assets/catalogue-publications/dossiers-de-presse/2021-2022/220329-Protection-Aide-Jeunesse.pdf.

[31] See www.violence.lu.

related to health from different perspectives. This is key to fostering national ownership and political will and essential to the effective implementation of all human rights given that, currently, across many spheres of Government, European Union standards and protocols are exclusively drawn upon for domestic implementation;

(b) **The national health framework should establish multidisciplinary, multisectoral and interdepartmental institutional responsibility for the implementation of a national strategy and plan of action on the right to health. It should include provisions on the targets to be achieved and the time frame for their implementation, the means by which the right to health benchmarks could be achieved, intended collaboration with civil society, including health experts, the private sector and international organizations, and possible recourse procedures;**

(c) **Data must be disaggregated from an intersectional perspective, taking into account marginalized groups of the population, including on sex, gender, sexual orientation, age, ethnic and national origin, disability status, health status and homelessness, to allow for the adoption of targeted policies that do not leave anyone behind and for the assessment of the impact on these groups of the population;**

(d) **Disaggregated data related to mental health that include children, young persons and LGBTIQA+ persons should be collected and made available in statistics. In this regard, a holistic approach should be taken on issues related to mental health;**

(e) **The State should be proactive in assessing the evidence base for innovations and technologies in health and ensure that there are adequate regulatory frameworks that support national and community priorities. In this regard, investing in digital literacy is important to avoid creating barriers due to technology;**

(f) **Investment must be made in employee health and wellness programmes to benefit the professional and personal development of health-care workers, such as continued medical education programmes and mental health and social programmes. It is important to provide health workers with adequate options for childcare that cover the different shifts that they are required to work;**

(g) **All levels of the health system must have regularly updated guidelines and protocols for the delivery of care that are based on professional and ethical standards, medical protocols and international standards. Such guidelines enable standardization and improvements in the patient experience and in efficiency. They also allow quality across the health system to be measured and inform standard operating procedures related to primary, secondary and specialized systems, as well as inpatient and outpatient care;**

(h) **Universal health coverage should be included in legislation to ensure its perennity. This would allow for the institutionalization of key functions of the health-care system that would allow systemic implementation of universal health coverage. Administrative barriers must be understood as compounding existing inequalities and removed to ensure non-discrimination in law and in practice;**

(i) **The impact of having a residence or domicile as a condition for persons to be enrolled in the National Health Fund or to be able to be fully covered by the health insurance should be reviewed and immediate steps should be taken to remedy it;**

(j) **The availability, accessibility, acceptability and quality of care, in particular mental health care, should be increased to cover the known and emerging needs of the population. The number of health-care workers specialized in trauma, violence and gender should be increased;**

(k) **Sexual and reproductive health rights are integral elements of the right of everyone to the enjoyment of the highest attainable standard of physical and mental health. Safe abortion should be provided to persons who request it without imposing waiting periods and the care provided must be in accordance with the medical protocols and international standards;**

(l) **National clinical guidelines should be developed on and more health-care workers should be trained in providing affirming care in relation to transgender**

persons and ensure that conversion therapy is banned. There must be legal protection for intersex persons from unnecessary medical interventions;

(m) **Maternal and newborn health must be prioritized and relevant data must be rapidly analysed and publicly available to ensure transparency. Improving policy and resourcing leads to better quality care and experiences of patients. It is important to keep patients informed about options and to provide support, for example for breastfeeding;**

(n) **The integration of all persons needing international protection should be facilitated through prompt measures, using the model implemented for people from Ukraine fleeing the armed conflict;**

(o) **It should be ensured that decisions regarding guardianship of children, even in situations where they are in conflict with the law (ensuring that deprivation of liberty is only a measure of last resort) or in psychiatric institutions, are in the best interests of the child and adhere to the principle of "do no harm";**

(p) **The adoption of the three bills aimed at protecting minors in the juvenile justice system should be expedited, taking into consideration the recommendations of the Committee on the Rights of the Child in its concluding observations of 2021;**[32]

(q) **A thorough psychological assessment of children who are seeking asylum should be undertaken upon arrival, due to them having a greater risk of violations of human rights, including the right to health in transit or because of their need to seek asylum. The "Aktioun Bobby" police telephone service to help children who are victims of physical, psychological or sexual violence should be regularly and widely publicized and services should be offered in languages that children seeking asylum can also understand;**

(r) **Ministries adopting laws, national plans and policies targeting specific groups of the population should consult with all relevant stakeholders, including the national human rights institution, civil society and rights holders, and ensure meaningful engagement to adequately respond to rights holders in clinical care at the level of health systems and in the underlying determinants of health;**

(s) **The Ombudsperson, the Centre for Equal Treatment, the Ombudsman for Children and Youth and the Consultative Human Rights Commission must be given the legal mandate and resources to receive complaints on behalf of rights holders to protect, promote and fulfil the right to health. The scope of their mandates must include supporting rights holders through preventive, responsive and reparative efforts, including presenting *amicus curiae* briefs and third-party interventions in governmental and judicial proceedings;**

(t) **The Government should support human rights-based legal frameworks, policy and integration and the provision of resources to ministries and civil society organizations working in harm reduction and to upscale access through the National Health Fund;**

(u) **Persons in precarious situations should be provided with information regarding the vouchers that are available for payment made in advance under the third-party payment system;**

(v) **Health should be enshrined as a right in the Constitution and the differentiation in the realization of the right to health between citizens and non-citizens of Luxembourg should be removed;**

(w) **A permanent independent monitoring mechanism, an entity with a legal mandate to monitor and advise on the integration of the multidisciplinary, multisectoral and interdepartmental approach to the right to health within different administrations of the government and legal frameworks, should be established.**

[32] CRC/C/LUX/CO/5-6.