January 2026

European Social Charter

European Committee of Social Rights

Conclusions XXIII-1

LUXEMBOURG

This text may be subject to editorial revision.

The function of the European Committee of Social Rights is to rule on the conformity of the situation in States with the European Social Charter. In respect of national reports, it adopts conclusions; in respect of collective complaints, it adopts decisions.

A presentation of this treaty as well as statements of interpretation formulated by the Committee appear in the General Introduction to the Conclusions.[1]

The 1961 European Social Charter was ratified by Luxembourg on 10 October 1991. The time limit for submitting the 27th report on the application of this treaty to the Council of Europe was 31 December 2024 and Luxembourg submitted it on 7 July 2025.

The present chapter on Luxembourg concerns 7 situations and contains:

– 3 conclusions of conformity: Articles 3§1, 4§3, 6§1

– 4 conclusions of non-conformity: Articles 2§1, 3§2, 5, 6§2

The next report from Luxembourg will be due on 31 December 2026.

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[1] *The conclusions as well as state reports can be consulted on the Council of Europe's Internet site (www.coe.int/socialcharter).*

Article 2 - Right to just conditions of work

Paragraph 1 - Reasonable working time

The Committee takes note of the information contained in the report submitted by Luxembourg.

The Committee recalls that for the purposes of the present report, States were asked to reply to targeted questions for Article 2§1 of the 1961 Charter (see the appendix to the letter, whereby the Committee requested a report on the implementation of the 1961 Charter in respect of the provisions falling within Group 1).

The assessment of the Committee will therefore concern the information provided by the Government in response to the targeted questions.

Measures to ensure reasonable working hours

In the targeted question, the Committee asked for information on occupations, if any, where weekly working hours can exceed 60 hours or more, by law, collective agreements or other means, including information on the exact number of weekly hours that persons in these occupations can work; as well as information on any safeguards which exist in order to protect the health and safety of the worker, where workers work more than 60 hours.

In reply, the report states that there are no provisions in the Labour Code that allow a 60-hour working week to be exceeded. The same applies to collective agreements of general application. Luxembourg strictly adheres to the provisions of Directive 2003/88/EC of the European Parliament and of the Council of 4 November 2003 concerning certain aspects of the organisation of working time.

The Committee notes that workers performing specific functions in certain sectors and in exceptional circumstances may be allowed to exceed 16 daily working hours limit or 60 weekly working hours limit during short periods. However, certain safeguards must exist (Conclusions XXIII-1, Statement of Interpretation on Article 2§1 on maximum working time).

Working hours of maritime workers

In the targeted question, the Committee asked for information on the weekly working hours of maritime workers.

In reply, the report states that, according to the Law on Public Maritime Register, the working hours of maritime workers are eight per day and 48 per week. A table setting out working hours must be posted in an accessible place. A collective agreement may provide that maritime workers may be employed on a daily basis other than set out in the law, provided that the minimum rest periods are complied with. Minimum hours of rest are ten hours per 24-hours and 77 hours per seven days. However, the parties of the collective agreement may agree that maritime workers may be employer beyond the daily limits. Overtime in excess of eight hours per day shall be compensated at the rate of the basic salary plus 25%.

The Committee notes that, in order to be in conformity with the Charter, maritime workers may be permitted to work a maximum of 14 hours in any individual 24-hour period and 72 hours in any individual seven-day period. The maximum reference period allowed is one year. Adequate rest periods have to be provided. Records of maritime workers' working hours shall be maintained by employers to allow supervision by the competent authorities of the working time limits (Conclusions XXIII-1, Statement of Interpretation on Article 2§1 on working time of maritime workers).

Law and practice regarding on-call periods

In the targeted question, the Committee asked for information on how inactive on-call periods are treated in terms of work or rest time on law and practice.

In reply, the report states that, according to the Labour Code working time means time during which the worker is at the disposal of their employer, rest periods during which the worker is not at the disposal of the employer are excluded.

The report further states that the Labour Code does not specify the conditions under which inactive periods of on-call duty are treated as working time. Luxembourg follows the case law of the CJEU and defines the concept of actual work using two criteria, namely the availability of the worker and the limitations on their freedom to choose their activities. If the worker is obliged to be present and available at the workplace, this on-call time is actual working time. If the worker does not need to remain at the workplace but merely needs to be contactable and available if necessary, only the time linked to the actual provision of services is considered as working time and paid under the overtime system. Restrictions such as the obligation to remain within a radius of 60 kilometres from the workplace, not to tire excessively and not to drink alcohol are not sufficient to transform on-call time to actual working time.

The report states that European case-law, followed by Luxembourg case-law, has subsequently specified that it is necessary to assess all the circumstances of the case as a whole, such as the time required to reach the workplace and the average frequency of intervention, to determine whether these constraints objectively and significantly affect the worker's ability to manage freely the time during which their professional services are not required and to devote their time to their own interests.

The report also states that the Law of 16 April 1979 on the General Status of State Civil Servants provides for the possibility of on-call duty at home. The regulations stipulate that civil servants are in principle entitled to compensatory leave or to an allowance. To determine whether the on-call time of a civil servant is remunerated as actual working time or by compensatory leave or the fixed allowance, reference should be made to the case-law described above.

The report states that collective agreements may also provide for a definition of working time and specify to what extent on-call time is considered working time, as is the case in particular in the collective agreement for the transport and logistics sector.

The Committee notes that, with regard to inactive parts of on-call period during which no work is carried out and where the worker stays at home or is otherwise away from the employer‘s premises, under no circumstances should such periods be regarded as rest periods in their entirety. However, there are two situations that need to be addressed. Firstly, the situation involves a worker who is on-call away from the employer‘s premises (at home or at another designated place by the employer) and who is under an obligation to be immediately available or available at very short notice and on a recurring basis to the employer, and where there are serious consequences in cases of the failure to respond. Such on-call periods, including where no actual work is performed (inactive on-call), must be classified as working time in their entirety and remunerated accordingly in order to be in conformity with the Charter. Secondly, the situation involves a worker who is away from the employer‘s premises (at home or at another place designated by the employer) and who has a certain degree of freedom to manage their free time and is allowed time to respond to work tasks (i.e. they do not have to report for work immediately or at a very short notice or on a recurring basis). In these circumstances, the inactive on-call periods amount neither to full-fledged working time nor to genuine rest periods. In such cases the situation may be considered as being in conformity with the Charter if the worker receives a reasonable compensation. The Committee will assess the reasonableness of the nature and level of such compensation on a case-by-case basis and will take into account circumstances such as the nature of the worker‘s duties, the degree of the restriction imposed on the worker and other relevant factors (Conclusions XXIII-1, Statement of Interpretation on Article 2§1 on on-call periods).

The Committee therefore considers that inactive on-call periods are only remunerated if the worker who has to be contactable actually works. The Committee therefore considers that the situation in Luxembourg is not in conformity with Article 2§1 of the 1961 Charter on the ground

that inactive on-call periods during which no effective work is undertaken are considered as rest periods.

Conclusion

The Committee concludes that the situation in Luxembourg is not in conformity with Article 2§1 of the 1961 Charter on the ground that inactive on-call periods during which no effective work is undertaken are considered as rest periods.

Article 3 - Right to safe and healthy working conditions

Paragraph 1 - Safety and health regulations

The Committee takes note of the information contained in the report submitted by Luxembourg.

The Committee recalls that, for the purposes of the present report, States were asked to reply to targeted questions for Article 3§1 of the 1961 Charter (see the appendix to the letter, whereby the Committee requested a report on the implementation of the Charter in respect of the provisions falling within Group 1).

The assessment of the Committee will therefore concern the information provided by the Government in response to the targeted questions.

The right to disconnect

In a targeted question, the Committee asked for information on the measures taken to ensure that employers put in place arrangements to limit or discourage work outside normal working hours, including the right to disconnect; and on how the right not to be penalised or discriminated against for refusing to undertake work outside normal working hours is ensured.

The report notes that the Labour Code was amended in 2023 to introduce a right to disconnect. In accordance with Article L. 312-9 thereof, any employer whose employees use information and communication technologies (ICT) for professional purposes is required to establish a specific framework guaranteeing respect for the right to disconnect outside working hours. This framework must be adapted to the particular circumstances of the company or the relevant sector of activity, and define, where applicable, the practical and technical modalities for disconnection, awareness-raising and training measures, as well as compensation arrangements in the event of an exceptional derogation from the right to disconnect. The law is to be implemented through collective agreements at sectoral or company level. In the absence of a collective bargaining agreement or a subordinate agreement, the specific scheme setting out methods of disconnection should be defined at company level. A fine of between €251 and €25,000 may be imposed for a breach of these rules. The report further notes that the Labour Code also contains provisions on the prohibition of retaliation, access to justice, monitoring and supervision, which apply equally in the event of a breach of the right to disconnect.

Personal scope of the regulations

In a targeted question, the Committee asked for information on the measures taken to ensure that self-employed workers, teleworkers and domestic workers are protected by occupational health and safety regulations; and on whether temporary workers, interim workers and workers on fixed-term contracts enjoy the same standard of protection under health and safety regulations as workers on contracts with indefinite duration.

Self-employed workers

The report notes that self-employed workers are generally not subject to the safety obligations that apply to employers in relation to their employees, but must nevertheless comply with the minimum safety rules applicable to specified establishments as well as with those applicable to certain sectors, such as construction, where self-employed workers are explicitly covered by the safety coordination obligations on temporary or mobile worksites, in accordance with the amended Grand-Ducal Regulation of 27 June 2008.

The Committee also refers to its earlier positive assessment in this regard, noting that self-employed workers were compulsorily insured by the Association for Accident Insurance (now the Social Security Centre – "*Centre commun de la sécurité sociale*" (CCSS)), a public body with statutory authority to impose its own accident-prevention regulations (Conclusions XVI-2

(2003)). According to information presented on the CCSS website, this assessment continues to apply.

Teleworkers

The report notes that teleworkers are covered by occupational health and safety regulations. Notably, the Agreement on Telework, made generally obligatory by Grand-Ducal regulation, explicitly provides that the employer remains responsible for the safety and health of the remote worker. The employer must ensure that the home workplace adheres to ergonomic principles and does not jeopardise the employee's safety or health.

Domestic workers

The report notes that employers are obliged to ensure a safe working environment that respects the dignity of persons performing domestic work and that domestic workers are entitled to report any situation that endangers their health or safety.

Temporary workers

The report confirms that temporary workers, interim workers and workers on fixed-term contracts enjoy the same standard of protection under health and safety regulations as workers on contracts with indefinite duration.

Conclusion

The Committee concludes that the situation in Luxembourg is in conformity with Article 3§1 of the 1961 Charter.

Article 3 - Right to safe and healthy working conditions

Paragraph 2 - Enforcement of safety and health regulations

The Committee takes note of the information contained in the report submitted by Luxembourg.

The Committee recalls that for the purposes of the present report, States were asked to reply to targeted questions for Article 3§2 of the 1961 Charter (see the appendix to the letter, whereby the Committee requested a report on the implementation of the Charter in respect of the provisions falling within Group 1).

In a targeted question, the Committee asked for information on measures taken to ensure the supervision of the implementation of health and safety regulations concerning vulnerable categories of workers such as: (i) domestic workers; (ii) digital platform workers; (iii) teleworkers; (iv) posted workers; (v) workers employed through subcontracting; (vi) the self-employed; (vii) workers exposed to environmental-related risks such as climate change and pollution.

The assessment of the Committee will therefore concern the information provided by the Government in response to the targeted questions.

The report indicates that the Labour and Mines Inspectorate (the ITM) implements, within the framework of its powers, a set of measures aimed at ensuring the monitoring of the application of regulations on safety and health at work. These measures include categories of workers considered vulnerable, due either to their status or the specific conditions in which their activity is carried out. The measures in question are based on the general principles of prevention set out in the Labour Code, specific laws and implementing regulations. The report notes that, in general, the ITM ensures compliance with occupational safety and health regulations by adapting its monitoring and prevention actions to changes in the labour market and the emergence of new forms of occupational vulnerability.

Domestic workers

With regard to domestic workers, the report indicates that, although their activity is carried out in private households, the employer has an obligation to ensure a safe working environment that respects the dignity of the person employed. It is further stated that, subject to respect for the inviolability of the home, the ITM ensures that these workers are informed of their rights regarding safety and health at work. In the event of a dangerous situation or a clear breach of fundamental rights, domestic workers can refer to the ITM.

Digital platform workers

The report notes that digital platform workers benefit from the same protections as salaried workers as long as their legal status corresponds to a relationship of subordination. The ITM intervenes to monitor actual working conditions, ensuring in particular that no worker is unduly classified as self-employed when they are actually carrying out their activity under the direction and control of a principal, in accordance with case law and Article L. 121-1 of the Labour Code.

Teleworkers

The report notes that the protection of teleworkers is ensured both by the general provisions of the Labour Code (in particular Articles L. 312-1 to L. 351-3) and by the Agreement of 20 October 2020 relating to teleworking, which was made mandatory by Grand-Ducal regulation. The latter Agreement expressly provides that the employer remains responsible for the safety and health of the teleworker. The employer must ensure that the home workstation complies with ergonomic principles and does not endanger the employee’s safety and health. While respecting the employee's privacy, the ITM monitors whether employers are meeting their obligation to guarantee a healthy, ergonomic and safe working environment, even in a remote

setting, and that teleworking does result in an excessive intensification of work or a violation of rights regarding rest time.

The Committee notes that, under Article 3 of the Charter, teleworkers, who regularly work outside of the employer's premises by using information and communications technology, enjoy equal rights and the same level of protection in terms of health and safety as workers working at the employer's premises.

States Parties must take measures to ensure that employers comply with their obligations to ensure safe and healthy working conditions for their teleworkers, such as: (i) assessing the risks associated with the teleworker's work environment; (ii) providing or ensuring access to ergonomically appropriate equipment and protective equipment; (iii) providing information and training to teleworkers on ergonomics, safe use of equipment, physical risks (e.g. musculoskeletal disorders, eye strain) and prevention of psychosocial risks (e.g. isolation, stress, cyberbullying, work-life balance, including digital disconnect, and electronic monitoring); (iv) maintaining clear documentation and records; (v) providing appropriate support through human resources or health and safety officers/services; and (vi) ensuring that teleworkers can effectively report occupational accidents or health and safety issues encountered during teleworking. States Parties must also take measures to ensure that teleworkers comply with the guidelines and regulations on health and safety and co-operate with employers and labour inspectorate or other enforcement bodies in this sense.

The labour inspectorate or other enforcement bodies must be entitled to effectively monitor and ensure compliance with health and safety obligations by employers and teleworkers. This requires to: (i) conduct regular and systematic supervision, including remote audits; (ii) review employers' risk assessments and training documentation; (iii) verify the appropriateness and effectiveness of preventive measures taken by employers; (iv) have adequate resources, legal authority, and clearly defined powers to issue corrective instructions and impose proportionate and dissuasive sanctions in cases of non-compliance.

Posted workers

With regard to workers posted from abroad to Luxembourg, the report notes that the ITM applies the provisions of L. 141-1 to L. 145-6 of the Labour Code regarding posted workers. The ITM ensures compliance with the obligations applicable in Luxembourg, including those relating to occupational health and safety.

Workers employed through subcontracting

The report indicates that in the context of subcontracting, the obligation to ensure safe practices falls on each employer towards its staff.

Self-employed workers

The report states that, although self-employed workers are not, in principle, subject to the same safety obligations incumbent on employers towards their employees, certain safety requirements do apply to them, in particular under the amended law of 10 June 1999 concerning classified establishments, as well as specific sectors, such as construction, where self-employed workers are explicitly covered by the safety coordination obligations on temporary or mobile construction sites, in accordance with the amended Grand-Ducal regulation of 27 June 2008.

The Committee notes from the information provided in the report that only self-employed workers engaged in work on construction sites and classified establishments are subject to supervision by the Labour Inspectorate. It recalls that the objective of providing a safe and healthy working environment must be the same for both employed and self-employed workers, and the regulations and their enforcement must be adequate and suitable in view of the work being done (Conclusions XIV-2 - Statement of interpretation - Article 3). The Committee

considers that the situation in Luxembourg is not in conformity with Article 3§2 of the 1961 Charter on the ground that certain categories of self-employed workers are not subject to supervision by the labour inspectorate.

Workers exposed to environment-related risks such as climate change and pollution

The report states that workers exposed to environmental risks, such as those caused by climate change (exposure to heat, extreme weather conditions) or pollution (particles, chemicals), are given increased attention as part of occupational risk assessments. Under Article L. 312-1 of the Labour Code, employers are required to identify and prevent environmental risks by taking collective and individual protection measures. During its inspections, the ITM monitors whether employers take these emerging factors into account and that the equipment, procedures, and training are adapted to the new challenges in terms of occupational safety and health. For example, measures related to the reorganisation of working hours during periods of extreme heat or the provision of protective equipment must be considered.

The Committee recalls that States must effectively monitor the application of standards addressing climate-related safety and health risks, including through appropriate supervisory mechanisms, and should undertake these efforts in close consultation with employers' and workers' organisations.

Risk assessment and prevention/protection plans should include measures aimed at mitigating the effects of climate change on the safety and physical and mental health of workers (for example, provision of personal protective equipment, appropriate clothing, sun protection, hydration, ventilation, as well as the introduction of reduced or flexible working hours and the provision of mental health support and other support services, where appropriate). The Committee further stresses the importance of providing guidance and training to employers and workers, as well as implementing awareness-raising activities, collection of data and carrying out of research concerning the impact of climate change.

Conclusion

The Committee concludes that the situation in Luxembourg is not in conformity with Article 3§2 of the 1961 Charter on the ground that certain categories of self-employed workers are not subject to supervision by the labour inspectorate.

Article 4 - Right to a fair remuneration

Paragraph 3 - Non-discrimination between and women men with respect to remuneration

The Committee takes note of the information contained in the report submitted by Luxembourg.

The Committee recalls that in the context of the present monitoring cycle, States were asked to reply to the targeted questions for Article 4§3 of the Charter (see the appendix to the letter, whereby the Committee requested a report on the implementation of the Charter in respect of the provisions falling within Group 1).

The assessment of the Committee will therefore concern the information provided in the report in response to the targeted questions.

The notion of equal work and work of equal value

In its targeted question the Committee asked the report to indicate whether the notion of equal work and work of equal value is defined in domestic law or case law.

The Committee recalls that under Article 4§3 in order to establish whether work performed is equal or of equal value, factors such as the nature of tasks, skills, educational and training requirements must be taken into account. Pay structures shall be such as to enable the assessment of whether workers are in a comparable situation with regard to the value of work. The value of work, that is the worth of a job for the purposes of determining remuneration should be assessed on the basis of objective gender-neutral criteria, including educational, professional and training requirements, skills, effort, responsibility and working conditions, irrespective of differences in working patterns. These criteria should be defined and applied in an objective, gender-neutral manner, excluding any direct or indirect gender discrimination.

The Committee considers that the notion of equal work or work of equal value has a qualitative dimension and may not always be satisfactorily defined, thus undermining legal certainty. The concept of “work of equal value” lies at the heart of the fundamental right to equal pay for women and men, as it permits a broad scope of comparison, going beyond “equal”, “the same” or “similar” work. It also encompasses work that may be of a different nature, but is, nevertheless, of equal value.

States should therefore seek to clarify this notion in domestic law as necessary, either through legislation or case law (Conclusions XV-2, Article 4§3, Poland). No definition of work of equal value in legislation and the absence of case law would indicate that measures need to be taken to give full legislative expression and effect to the principle of equal remuneration, by setting the parameters for a broad definition of equal value.

The Committee notes from the report that L. 225-1 of the Labour Code provides that every employer shall ensure equal pay for men and women for the same work or for work of equal value. Work of equal value is defined as work requiring employees to have a comparable set of professional knowledge recognised by a title, diploma, or professional experience, skills derived from acquired experience, responsibilities, and physical or mental strain. According to the report, Luxembourg is currently preparing to transpose Directive (EU) 2023/970 of the European Parliament and of the Council of 10 May 2023 aimed at strengthening the application of the principle of equal pay for women and men for equal work or work of equal value through pay transparency and enforcement mechanisms.

The Committee considers that the situation is in conformity with the Charter on this point.

Job classification and remuneration systems

In its targeted question the Committee asked the report to provide information on the job classification and remuneration systems that reflect the equal pay principle, including in the private sector.

The Committee considers that pay transparency is instrumental in the effective application of the principle of equal pay for work of equal value. Transparency contributes to identifying gender bias and discrimination and it facilitates the taking of corrective action by workers and employers and their organisations as well as by the relevant authorities. In this respect, job classification and evaluation systems should be promoted and where they are used, they must rely on criteria that are gender-neutral and do not result in indirect discrimination. Moreover, such systems must consider the features of the posts in question rather than the personal characteristics of the workers (UWE v. Belgium, Complaint No. 124/2016, decision on the merits of 5 December 2019). Where gender-neutral job evaluation and classification systems are used, they are effective in establishing a transparent pay system and are instrumental in ensuring that direct or indirect discrimination on the grounds of gender is excluded. They detect indirect pay discrimination related to the undervaluation of jobs typically done by women. They do so by measuring and comparing jobs the content of which is different but of equal value and so support the principle of equal pay.

The Committee considers that States Parties should take the necessary measures to ensure that analytical tools or methodologies are made available and are easily accessible to support and guide the assessment and comparison of the value of work and establish gender neutral job evaluation and classification systems.

According to the report the principle of equal pay for women and men for equal work or work of equal value is guaranteed by the Labour Code (Article L.225-1). This principle requires employers to base their remuneration and job classification systems on objective, transparent, and non-discriminatory criteria. In the private sector, there is no single mandatory classification grid. Each company develops its own structure of functions and hierarchical levels, generally governed by collective agreements, company-wide agreements, or internal practices. However, employers must ensure that these classifications do not produce indirectly discriminatory effects based on gender. For administrative and statistical purposes, the Joint Centre for Social Security (CCSS) uses the International Standard Classification of Occupations (ISCO-08) at the national level. This nomenclature allows for a harmonised categorisation of declared occupations, facilitating sectoral comparisons and analyses of employment and remuneration trends. To support employers in analysing their compensation systems, the Ministry of Gender Equality and Diversity provides LOGIB Luxembourg, a free statistical analysis tool for measuring pay gaps between women and men in comparable positions. LOGIB is based on multiple linear regression analysis, which controls for relevant explanatory variables (level of education, seniority, company size, responsibilities held, etc.) to isolate any unjustified pay gap attributable to gender. It thus highlights potential systemic or structural inequalities. LOGIB is integrated into the Positive Actions programme, which allows volunteer companies to conduct a comprehensive assessment and implement supervised corrective measures. In the public sector, classifications are defined by statutory scales and regulations.

The report further states that Luxembourg has adopted a series of legislative, institutional, and operational measures to promote an effective reduction in the pay gap between women and men. On the legal front, the amended law of December 15, 2016, strengthens provisions relating to equal pay for work of equal value. It clarifies employers' obligations and strengthens recourse options in cases of direct or indirect pay discrimination. At the same time, employees have access to a specialised service desk at the Labour and Mines Inspectorate (ITM), allowing them to report any situation of pay discrimination. On an operational level, the Ministry of Gender Equality and Diversity's Positive Actions programme allows companies and institutions to analyse their compensation practices.

The Committee considers that the situation is in conformity with the Charter on this point.

Measures to bring about measurable progress in reducing the gender pay gap

In its targeted question the Committee asked the report to provide information on existing measures to bring about measurable progress in reducing the gender pay gap within a reasonable time.

The Committee considers that States are under an obligation to analyse the causes of the gender pay gap with a view to designing effective policies aimed at reducing it. The Committee recalls its previous holding that the collection of data with a view to adopting adequate measures is essential to promote equal opportunities. Indeed, it has held that where it is known that a certain category of persons is, or might be, discriminated against, it is the duty of the national authorities to collect data to assess the extent of the problem *(*European Roma Rights Centre v. Greece, Complaint No. 15/2003, decision on the merits of 8 December 2004, §27). The gathering and analysis of such data (with due safeguards for privacy and to avoid abuse) is indispensable to the formulation of rational policy (European Roma Rights Centre v. Italy, Complaint No. 27/2004, decision on the merits of 7 December 2005, §23).

The Committee considers that in order to ensure and promote equal pay, the collection of high-quality pay statistics broken down by gender as well as statistics on the number and type of pay discrimination cases are crucial. The collection of such data increases pay transparency at aggregate levels and ultimately uncovers the cases of unequal pay and therefore the gender pay gap. The gender pay gap is one of the most widely accepted indicators of the differences in pay that persist for men and women doing jobs that are either equal or of equal value. In addition, to the overall pay gap (unadjusted and adjusted, the Committee will also, where appropriate, have regard to more specific data on the gender pay gap by sectors, by occupations, by age, by educational level, etc (University Women of Europe (UWE) v. Finland, Complaint No. 129/2016, decision on the merits of 5 December 2019, §206).

The Committee has held that where the States have not demonstrated a measurable progress in reducing the gender pay gap, the situation amounted to a violation of the Charter (University Women of Europe (UWE) v. Finland, Complaint No. 129/2016, decision on the merits of 5 December 2019).

The report states that the unadjusted hourly gender pay gap in Luxembourg has shown a structurally positive trend since 2006. It has fallen from +10.7% in favour of men (2006) to -0.9% in favour of women (2023). Luxembourg is currently the only country in the European Union where this gap favours women, according to the European harmonised method.

The Committee notes from Eurostat that in 2021 the gender pay gap amounted to -0.2% and to -0.9% in 2023. The Committee considers that the situation is in conformity with the Charter.

Conclusion

The Committee concludes that the situation in Luxembourg is in conformity with Article 4§3 of the 1961 Charter.

Article 5 - Right to organise

The Committee takes note of the information contained in the report submitted by Luxembourg.

The Committee recalls that in the context of the present monitoring cycle, States were asked to reply to the targeted questions for Article 5 of the Charter (see the appendix to the letter, whereby the Committee requested a report on the implementation of the Charter in respect of the provisions falling within Group 1).

The assessment of the Committee will therefore concern the information provided in the report in response to the targeted questions.

Positive freedom of association of workers

In its targeted question a), the Committee asked for information about measures that have been taken to encourage or strengthen the positive freedom of association of workers, particularly in sectors which traditionally have a low rate of unionisation or in new sectors (e.g., the gig economy).

In reply, the report states that in Luxembourg, trade union freedoms are guaranteed in the Constitution. The individual dimension of trade union freedoms concerns citizens in their individual employment relationships (the prohibition of trade union discrimination). This freedom also affects relations between employees and trade unions. The collective dimension protects trade unions and guarantees them not only freedom of association but also a certain freedom of action. Trade union freedoms under the Constitution comprises the freedom to join a trade union, the freedom not to join a trade union; and the right to withdraw. The report underlines that this protection must apply to everyone and protect individuals against any unfavourable treatment, in particular in the form of reprisals by public authorities, work colleagues and employers, on account of trade union membership.

The report states that Luxembourg has not yet taken any measures to encourage or strengthen the positive freedom of association of workers. However, there are plans to introduce such measures as part of the planned reform to adapt and modernise the legal provisions on collective bargaining with a view to promoting social dialogue and the conclusion of collective agreements.

The Committee notes that the “Scientific research paper” of Luxembourg's *Chambre des députés* (“*Le travail de plateforme, Définitions, enjeux, perspectives européennes et compares*” No. 44, 10 March 2025) highlights the precarious situation of platform workers in Luxembourg, both in terms of their working conditions and their social protection. According to this paper, one of the main concerns is the correct determination of the professional status of platform workers. Workers who are incorrectly classified as self-employed (known as “bogus self-employed workers”) are unfairly deprived of the social protection enjoyed by employees.

Apart from the problem of low income for platform workers, which is due to very low piecework rates, aggressive competition, but also the fact that self-employed workers bear all social security contributions and fixed costs (such as fuel or equipment), the research paper underlines that platform workers are subject to precariousness with regard to their social protection. In particular, the model on which the economic activity of work platforms is based, namely the use of automated work management systems, which is mainly carried out by self-employed workers, makes the implementation of social dialogue challenging. According to the paper, the anonymity that prevails on platforms, the isolation involved in performing tasks, the lack of a physical workplace, and the incentive for competition between workers, all prevent workers from communicating and mobilising collectively. The paper states that the isolation of platform workers in their work is compounded by a lack of trade union culture, which may explain their low interest in unionisation and coordinated action.

The Committee also notes (Guy Castegnaro, Employment law, First Luxembourg ruling on the status of platform workers, 27 May 2025) that, in May 2025, the Luxembourg Labour Court issued a decision concerning the status of platform workers, rejecting the claim of a former delivery driver from a company, active in meal delivery. The court, after examining the conditions under which the work was performed, concluded that there was no legal subordination, a central criterion for qualifying an employment contract under domestic law. The court thus rejected the reclassification, considering that the evidence put forward by the plaintiffs related more to the organisation of a logistics service than to a disciplinary or hierarchical power specific to an employee relationship.

The Committee further notes that a draft law (No. 8001) aiming to establish a new national legal framework to regulate the employment relationship of natural persons who provide services/work via platforms was tabled in May 2022 in the *Chambre des députés*. The draft law set out criteria for determining whether a job is carried out via a platform and creates a presumption of the existence of an employment relationship as soon as one or more of the criteria set out is fulfilled. However, the draft law was not adopted by the *Chambre des députés*.

In light of the above, and in the absence of any other information in the report on any measures taken or envisaged, the Committee concludes that no measures have been taken to encourage or strengthen the positive freedom of association of workers, particularly in sectors which traditionally have a low rate of unionisation or in new sectors (e.g., the gig economy).

Legal criteria for determining the recognition of employers' organisations for the purposes of social dialogue and collective bargaining

In reply to the Committee's request for information concerning the legal criteria for determining the recognition of employers' organisations for the purposes of social dialogue and collective bargaining (targeted question b)), the report states that very few legal rules govern employers' organisations, and the law therefore does not set any representativeness requirements for employers' organisations.

Legal criteria for determining the recognition and representativeness of trade unions in social dialogue and collective bargaining

In a targeted question, the Committee requested information on the legal criteria for determining the recognition and representativeness of trade unions in social dialogue and collective bargaining. It particularly requested information on the status and prerogatives of minority trade unions; and the existence of alternative representation structures at company level, such as elected employee representatives (targeted question c)).

According to the report, the requirements for trade unions are set out in Articles L. 161-4 et seq. of the Labour Code. There are two types of representativeness: general national representativeness and representativeness in a particularly important sector of the economy. The trade union must meet the general definition of a trade union, which implies that it is organisationally and financially independent. In addition, trade unions must demonstrate that they have the efficiency and power necessary to assume the responsibilities arising from their status and, in particular, to support a major social conflict at national or sectoral level.

The requirements for recognition of national representativeness are as follows:- the trade union must have obtained at least 20% of the votes cast in the last elections to the Chamber of Employees;- the trade union must be active in the majority of the country's economic sectors. This criterion is checked on the basis of the results obtained by the trade union in the last elections to the staff delegations. These elections are organised within individual companies.

The reference factor for determining the importance of a sector is the number of employees working in it. The requirements for recognition of sectoral representativeness are as follows:-

the law establishes a presumption that a sector is particularly important if it represents at least 10% of employees.- however, the 10% threshold is not absolute, but merely a presumption. If the threshold is not reached, the Minister of Labour has a certain margin of discretion and may, in particular, base its decision on criteria such as the importance or vital nature of the sector for the national economy and the amount of tax revenue it generates;- the sector must in any case, comprise more than one company.

In order to be recognised as representative in an important sector, two conditions must be met:- the trade union must have submitted lists and had representatives elected in the last elections to the Chamber of Employees;- it must have obtained 50% of the votes in the group corresponding to the field covered by the Chamber of Employees.

As for minority trade unions, the report states that although they do not have the capacity to negotiate and sign collective agreements, they play an important role in representing workers. Their rights include:- participation in social dialogue; they can participate in discussions and consultations on working conditions and other social issues;- assisting staff representatives; they can propose advisors to assist staff representatives in their duties, particularly in companies with more than 150 employees;- representing specific interests; they defend the interests of specific groups of workers or particular sectors, thereby contributing to diverse representation.

With regard to alternative representation structures at company level, the report states that, in Luxembourg, employee delegations are at the heart of social dialogue. The 2016 reform of the Labour Code abolished joint committees, further strengthening the role of staff representatives as the primary representative body for employees. Staff representatives must be elected in all companies with at least 15 employees.

The report adds that the Luxembourg system ranks fairly high in terms of employee participation in companies:- the threshold for setting up staff delegations is relatively low (15 employees);- staff delegations have very broad information and consultation rights and are very strongly protected against dismissal; - a system of co-decision on important issues is in place for companies with 150 or more employees.

The right of the police and armed forces to organise

In a targeted question, the Committee requested information on whether and to what extent members of the police and armed forces are guaranteed the right to organise (targeted question d)).

According to the report, the right of civil servants to organise is guaranteed by the Law of 16 April 1979 establishing the general status of civil servants. This law applies to employees of the State working for the Grand Ducal Police and the Army, who therefore benefit from the right to organise to the same extent as civil servants.

Conclusion

The Committee concludes that the situation in Luxembourg is not in conformity with Article 5 of the Charter on the ground that no measures have been taken to encourage or strengthen the positive freedom of association of workers, particularly in sectors which traditionally have a low rate of unionisation or in new sectors.

Article 6 - Right to bargain collectively

Paragraph 1 - Joint consultation

The Committee takes note of the information contained in the report submitted by Luxembourg.

The Committee recalls that, for the purposes of the present report, States were invited to respond to the specific questions for Article 6§1 of the Charter (see the appendix to the letter, whereby the Committee requested a report on the implementation of the Charter in respect of the provisions falling within Group 1).

The assessment of the Committee will therefore concern the information provided in the report in response to the targeted questions.

Measures taken to promote joint consultation

In a targeted question, the Committee asked what measures are taken by the government to promote joint consultation.

The report indicates that the government has put in place several measures to promote joint consultation, thereby fostering constructive dialogue between the social partners and aiming to ensure balanced reforms and maintain a peaceful social climate.

According to the report, social dialogue procedures are based on a tripartite approach at all levels, going as far as institutionalising it and integrating trade unions and employers' organisations into state decision-making structures.

Employers and employees have a significant influence on legislative activity, both at the legislative initiative stage, through the tripartite system, and at the legislative procedure stage, through the professional chambers. The Government and the Chamber of Deputies must seek their opinion on all draft laws and regulations of particular interest to the professions they represent. These opinions form part of parliamentary proceedings and are accessible to the public. In addition, the Chambers must be heard on their opinions in the context of the procedure for declaring collective agreements and agreements on interprofessional social dialogue to be generally binding. All chambers have the right to submit draft legislation to the Government, which the latter must examine and submit to the Chamber of Deputies when the subject matter falls within the latter's competence.

The Chamber of Employees (CSL) brings together all employees working in Luxembourg, as well as pensioners. The opinion of the CSL must be sought before the Chamber of Deputies proceeds to the final vote on laws concerning the persons concerned. The CSL is also involved in the election of employee assessors to the labour and social courts. In general, it is the central body representing employees in social security matters.

The Economic and Social Council, which brings together employee and employer representatives, is responsible for all issues not directly related to crisis or emergency situations, which distinguishes it from the tripartite committee. This Council was established in 1966 as an advisory body which, at the request of the Government or on its own initiative, examines economic, social and financial issues affecting several economic sectors or the national economy as a whole. Its task is to organise support for social dialogue, and the Government forwards to it the opinions adopted by the tripartite coordination committee.

The Tripartite Coordination Committee, which played an important and decisive role in managing the steel crisis of the late 1970s and early 1980s, has evolved and established itself as a central platform for social consultation between public authorities and employer and trade union organisations. In addition, the tripartite structure is no longer limited to the steel industry alone, but sectoral tripartite bodies have been set up.

The Standing Committee on Labour and Employment (CPTE) was established at the end of 2007, following impetus from the ILO in particular for the creation of a genuine tripartite

committee as a forum for discussion, especially on occupational safety and health. Its mission is to provide the Minister of Labour with a forum for dialogue and consultation. In general, it is responsible for regularly reviewing the situation regarding employment and unemployment, working conditions, safety and health of employees. The CPTE is supposed to meet when necessary and at least three times a year. It must be consulted on certain employment policy decisions.

Other tripartite and multipartite bodies in which trade unions have a voice include the National Conciliation Office, the Women's Labour Committee, the Advisory Committee on Vocational Training, the Advisory Committee on Labour Inspection, the Multisectoral Occupational Health Service, the Higher Council for Health and Safety at Work, the Special Review Committee and the Joint Committee.

Indirectly, through the CSL or the CPTE, trade unions are also present in other structures, such as the Higher Council for National Education; the Higher Council for Regional Planning; and the National Councils for Environmental Protection, Culture and Scientific Research.

The social partners are also represented in social security bodies, in particular on the boards of the Fund for the Future of Children; the National Health Fund; the Health Insurance Fund for Civil Servants and Public Employees; the Accident Insurance Association; the National Pension Insurance Fund; and the Joint Social Security Centre.

Issues of mutual interest that have been the subject of consultations and joint agreements adopted

In a targeted question, the Committee asked as to what issues of mutual interest have been the subject of joint consultation during the past five years, what agreements have been adopted as a result of such discussions and how these agreements have been implemented.

According to the report, over the past five years, the government, in collaboration with representative trade unions and the relevant employers' organisations, has conducted the following joint consultations to address economic, social and energy challenges:

The opinion of the Economic, Social and Environmental Council on teleworking led to the signing, on 20 October 2020, of the agreement on the legal framework for teleworking. This agreement has been declared generally applicable. The tripartite approach also proved its worth during the COVID-19 pandemic crisis, particularly in the aviation and steel sectors, as well as in the context of the vaccination strategy.

The aim of the Solidarity Pact 2.0 (September 2022) was to support household purchasing power and business competitiveness in the face of rising energy prices. The Tripartite Agreement of 7 March 2023 (Solidarity Pact 3.0) addressed persistent inflation and the economic consequences of the war in Ukraine by introducing compensation measures. The housing agreement, concluded on 31 March 2022, aimed to improve access to housing for low-income households through adjustments to the rent subsidy system implemented from 1 August 2022, with clear communication to potential beneficiaries. The agreement in the steel industry, concluded on 15 December 2020, secured jobs and prevented mass layoffs.

On 24 January 2024, the Government Council, on the advice of the Extraordinary Economic Committee of 23 January 2024, decided to declare certain branches of the construction sector to be in crisis. Companies in the branches concerned will thus be eligible for short-time working due to economic circumstances.

Various topics, such as teleworking, work provided through digital platforms, social plans, training and the forward-looking employment and skills management programme, were discussed between the social partners at the meetings of the Standing Committee on Labour and Employment.

The Committee recalls that, in its previous conclusions (Conclusions XXII-3), it considered that the situation in Luxembourg was in conformity with Article 6(1), pending information on

the scope of the joint consultation at national level. The Committee considers that this report demonstrates that a wide range of joint consultations have been carried out at national level.

Joint consultation on the digital transition and the green transition

In a targeted question, the Committee asked whether there had been joint consultation on issues related to (i) the digital transition, or (ii) the green transition.

According to the report, Luxembourg is committed to involving social partners, citizens and various actors in society in decision-making processes relating to the digital and green transitions, in order to ensure inclusive policies that are tailored to the needs of all.

Digital transition

In June 2024, the government launched a public consultation on the national strategic roadmap for the digital decade towards 2030. This initiative aimed to gather the views of private and public actors in Luxembourg's digital ecosystem, including representatives of small and medium sized enterprises (SMEs), social partners and civil society. The questionnaire addressed the challenges and opportunities faced by national stakeholders in their digital transformation. The results of this consultation contributed to the development of the new national strategic roadmap for 2024, aligned with European digital transformation objectives. This roadmap aims to develop the digital skills of all citizens, strengthen secure and sustainable digital infrastructure and accelerate the digital transformation of businesses and public services.

As part of the work of the Standing Committee on Labour and Employment, the social partners were consulted jointly on the transposition of the Directive on work performed via digital platforms, as well as on the modernisation and digitalisation of social elections.

Green transition

The government launched the "Luxembourg in Transition" process, an international consultation involving multidisciplinary teams to develop scenarios and proposals to achieve carbon neutrality for Luxembourg and its border regions by 2050. This process was accompanied by a citizens' committee, the Biergerkommitee Lëtzebuerg 2050, which made recommendations to policy makers. The results of this consultation were incorporated into the National Integrated Energy and Climate Plan, which sets out the national climate targets for the coming years.

Conclusion

The Committee concludes that the situation in Luxembourg is in conformity with Article 6§1 of the 1961 Charter.

Article 6 - Right to bargain collectively

Paragraph 2 - Negotiation procedures

The Committee takes note of the information contained in the report submitted by Luxembourg.

The Committee recalls, that for the purposes of the present report, States were asked to reply to targeted questions for Article 6§2 of the 1961 Charter (see the appendix to the letter, whereby the Committee requested a report on the implementation of the Charter in respect of the provisions falling within Group 1).

The assessment of the Committee will therefore concern the information provided by the Government in response to the targeted questions.

Coordination of collective bargaining

In a targeted question, the Committee asked for information on how collective bargaining was coordinated between and across different bargaining levels. Specifically, the question sought details on factors such as *erga omnes* clauses and other mechanisms for the extension of collective agreements, as well as to the favourability principle and the extent to which local or workplace agreements could derogate from legislation or collective agreements concluded at a higher level.

The report notes that there are several types of collective agreements, the most common being the “standard collective agreement” negotiated between an employer or a group of employers (or their representatives) and a trade union. Collective negotiations take place at the enterprise or sectoral levels. Standard collective agreements are legally binding on the signatory parties but may also be extended by grand-ducal regulation, thereby becoming applicable to all employers and employees in the sector concerned. This procedure, referred to as a “declaration of general application,” requires the approval of the Ministry of Labour and Employment. Intersectoral agreements are rare and generally concern specific matters relating to the implementation of EU-wide agreements concluded by the social partners, such as those on telework or harassment at work. It is also possible to conclude “subordinate agreements” and “enterprise agreements” based on the provisions of sectoral collective agreements or the Labour Code, intended to regulate matters specific to a given enterprise, including the derogations concerning working time mentioned below.

With regard to the principle of favourability, the report refers to Article L.162-12 of the Labour Code, which provides that collective agreements may establish terms more favourable than those set by law but cannot validly contain provisions that undermine mandatory legal protections. The report also notes that the law allows for limited exceptions to this principle through narrowly defined derogations, mainly in relation to working time.

The Committee notes that that the favourability principle establishes a hierarchy between different legal norms and between collective agreements at different levels. Accordingly, it is generally understood to mean that collective agreements may not weaken the protections afforded under the law and that lower-level collective bargaining may only improve the terms agreed in higher-level collective agreements. The purpose of the favourability principle is to ensure a minimum floor of rights for workers.

The Committee considers the favourability principle a key aspect of a well-functioning collective bargaining system within the meaning of Article 6§2 of the 1961 Charter, alongside other features present in the legislation and practice of States Parties, such as the use of *erga omnes* clauses and extension mechanisms. These features are typically found in comprehensive sectoral bargaining systems with high coverage, usually associated with stronger labour protections.

At the same time, the Committee notes that some States Parties provide for the possibility of deviations from higher-level collective agreements through what may be termed opt-out,

hardship, or derogation clauses. The Committee applies strict scrutiny to such clauses, based on the requirements set out in Article 31 of the 1961 Charter. As a matter of principle, the Committee considers that their use should be narrowly defined, voluntarily agreed, and that core rights must be always protected. In any event, derogations must not become a vehicle for systematically weakening labour protections.

Promotion of collective bargaining

In a targeted question, the Committee asked for information on the obstacles hindering collective bargaining at all levels and in all sectors of the economy (e. g. decentralisation of collective bargaining). The Committee also asked for information on the measures taken or planned to address those obstacles, their timeline, and the outcomes expected or achieved in terms of those measures.

The report notes that collective bargaining coverage varies according to sector and enterprise size, with sectors such as public service and healthcare enjoying almost complete coverage, while coverage remains weak in sectors such as hospitality and food (12%) or technical and scientific services (13%). The report lists several obstacles to collective bargaining, including the absence of representative trade unions, employer reluctance, the large number of small and medium-sized enterprises, the decentralisation of negotiations from the sectoral to the enterprise level, declining rates of unionisation, the presence of multinational enterprises, the growth of atypical forms of employment, labour migration, limited capacity of the social partners, and outdated regulation. The report also notes that the Government is currently considering measures to improve collective bargaining coverage and to promote social dialogue.

The Committee notes, based on the latest data available, that 59% of employees in Luxembourg are covered by a collective labour agreement (Eurofound (2024), *Working Life Country Profile: Luxembourg*), which is only slightly lower than the coverage rate recorded in 2010 of 60%. The extension procedure described above is applied routinely, with a significant number of agreements recently extended in sectors such as construction, banking, insurance and private security services, as well as in specific occupations such as taxi drivers and electricians (Müller, T. (Ed.) (2025). *Collective Bargaining and Minimum Wage Regimes in the European Union: The Transposition of the EU Directive on Adequate Minimum Wages in the EU-27*. Brussels: European Trade Union Institute (ETUI)).

Self-employed workers

In a targeted question, the Committee asked for information on the measures taken or planned to guarantee the right of self-employed workers, particularly those who are economically dependent or in a similar situation to employees, to bargain collectively.

The report notes that there is currently no legal framework regulating the right to collective bargaining for self-employed workers. The provisions on collective agreements set out in the Labour Code do not apply to them. However, certain associations may defend the interests of the self-employed by negotiating reference rates in sectors such as the liberal professions or the arts, by making representations before public authorities, or by offering shared services such as insurance or training.

The Committee recalls that rapid and fundamental changes in the world of work have led to a proliferation of contractual arrangements designed to avoid the formation of employment relationships and to shift risk onto the labour provider. As a result, an increasing number of workers who are de facto dependent on one or more labour engagers fall outside the traditional definition of an employee (*Irish Congress of Trade Unions (ICTU) v. Ireland*, Complaint No. 123/2016, decision on the merits of 12 September 2018, §37). In establishing the type of collective bargaining protected by the Charter, it is not sufficient to rely solely on distinctions between workers and the self-employed; the decisive criterion is whether an imbalance of power exists between providers and engagers of labour. Where providers of

labour have no substantial influence on the content of contractual conditions, they must be given the possibility of improving that imbalance through collective bargaining (*ICTU v. Ireland*, §38).

The Committee notes the explicit exclusion of self-employed workers from the relevant provisions of the Labour Code and to the limited opportunities for collective representation available to them, which fall well short of full collective bargaining rights. The Committee therefore concludes that the situation in Luxembourg is not in conformity with Article 6§2 of the 1961 Charter on the ground that the right to collective bargaining in respect of self-employed workers, particularly those who are economically dependent or in a similar situation to employees, has not been sufficiently promoted.

Conclusion

The Committee concludes that the situation in Luxembourg is not in conformity with Article 6§2 of the 1961 Charter on the ground that the right to collective bargaining in respect of self-employed workers, particularly those who are economically dependent or in a similar situation to employees, has not been sufficiently promoted.