

ECRI REPORT ON LUXEMBOURG

(sixth monitoring cycle)



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FOREWORD

The European Commission against Racism and Intolerance (ECRI), established by the Council of Europe, is an independent human rights monitoring body specialised in questions relating to the fight against racism, discrimination (on grounds of “race”, ethnic/national origin, colour, citizenship, religion, language, sexual orientation and gender identity), xenophobia, antisemitism and intolerance. It is composed of independent and impartial members appointed on the basis of their moral authority and recognised expertise in dealing with racism, xenophobia, antisemitism and intolerance.

In the framework of its statutory activities, ECRI conducts country monitoring work, which analyses the situation in each of the member States of the Council of Europe regarding racism and intolerance and draws up suggestions and proposals for dealing with the problems identified.

ECRI’s country monitoring deals with all member States on an equal footing. The work takes place in 5-year cycles. The reports of the first round were completed at the end of 1998, those of the second round at the end of 2002, those of the third round at the end of 2007, those of the fourth round in the beginning of 2014, and those of the fifth round at the end of 2019. Work on the sixth round reports started at the end of 2018.

The working methods for the preparation of the reports involve documentary analyses, a visit to the country concerned, and then a confidential dialogue with the national authorities.

ECRI’s reports are not the result of inquiries or testimonial evidence. They are analyses based on information gathered from a wide variety of sources. Documentary studies are based on a large number of national and international written sources. The in situ visit provides the opportunity to meet with the parties directly concerned (both governmental and non-governmental) with a view to gathering detailed information. The process of confidential dialogue with the national authorities allows the latter to provide, if they consider it necessary, comments on the draft report, with a view to correcting any possible factual errors which the report might contain. At the end of the dialogue, the national authorities may request, if they so wish, that their viewpoints be appended to the final ECRI report.

The sixth round country reports focus on three topics common to all member States: (1) Effective equality and access to rights, (2) Hate speech and hate-motivated violence, and (3) Integration and inclusion, as well as a number of topics specific to each one of them.

In the framework of the sixth cycle, priority implementation is requested again for two specific recommendations chosen from those made in the report. A process of interim follow-up for these two recommendations will be conducted by ECRI no later than two years following the publication of this report.

The following report was drawn up by ECRI under its own responsibility. Unless otherwise indicated, it covers the situation up to 30 March 2023; as a rule, developments since that date are neither covered in the following analysis nor taken into account in the conclusions and proposals therein.

SUMMARY

Since the adoption of ECRI's fifth report on Luxembourg on 6 December 2016, progress has been made and good practices have been developed in a number of fields.

The Centre for Equal Treatment (CET) has been attached to the Parliament, thereby further consolidating its independence.

A course entitled "Life and Society" dealing with, amongst others, human rights was put in place from the beginning of the school year 2016-2017. Initial and in-service training is offered to teachers on interculturality and management of diversity. An awareness-raising campaign on school bullying and violence was launched in 2021. LGBTI associations are invited to take part in activities to promote understanding and respect for LGBTI persons in schools.

Migrant children in an irregular situation can be enrolled in school through the creation of an identification number.

The first National LGBTI Action Plan was developed in 2018. The same year, legislation introducing legal gender recognition based on self-determination entered into force. An awareness-raising campaign to promote acceptance of intersex people was also launched.

Most of the politicians in Luxembourg do not use hate speech. Recent self-regulatory efforts to combat hate speech in the media have included the development of a "Netiquette", a code of good conduct for Internet users when writing online comments. In recent years Luxembourg courts have issued several important decisions condemning hate speech. Amendments to the Criminal Code introducing a general aggravating circumstance for bias-motivated offences recently entered into force.

A new National Integration Plan was adopted in 2018. The authorities offer migrants language courses and orientation and information sessions on daily life in Luxembourg. Foreigners are involved in advisory bodies, which deal with issues concerning migrants and their integration, both at national and local level. In 2022, all non-Luxembourgish residents of voting age were granted the right to participate in municipal elections.

A free plurilingual education programme was introduced in nursery schools in 2017. "Intercultural mediators" have been introduced in

schools to offer support to pupils and their parents. In addition, a "one-stop shop" set up for people fleeing Ukraine has considerably shortened the duration of the procedure for obtaining temporary protection.

ECRI welcomes these positive developments in Luxembourg. However, despite the progress achieved, some issues give rise to concern.

The legal status of the CET remains unclear, and its mandate and competences need to be reinforced. Although citizenship has been added as a protected ground in the Equal Treatment Act, the mandate of the CET has not been extended accordingly.

According to recent research, there are racist incidents in schools. The Covid-19 crisis seems to have led to an increase in cases of school bullying.

There is no legislation expressly prohibiting non-vital surgical interventions on intersex children until they reach an age when they can decide and give free and informed consent.

Hate speech has risen sharply in Luxembourg and its digitalisation increased considerably in recent years. The authorities have still not put in place an effective system for recording and monitoring racist and LGBTIphobic incidents. As a result, relevant statistical data remains sparse, while under-reporting remains a problem. In practice, victims of hate speech are not effectively supported by the authorities, and the efforts made by media regulatory and self-regulatory bodies to combat hate speech are fragmented.

The Integration Plan does not contain specific success indicators and the mid-term review originally foreseen in the Plan has not been carried out or planned. Gaps remain in the collection of equality data.

There are shortcomings in the provision of language courses for migrants. Migrants are not guided in their choice of language and the content of courses does not seem to be adapted to the labour market.

Recent studies report discrimination against people with an immigrant background, particularly of African descent and Portuguese

citizenship, in the field of employment. The professional integration of asylum seekers and refugees remains a major challenge.

Foreign children or children of parents of foreign citizenship, especially Portuguese, still face significant challenges in education. They are over-represented in the vocational/technical stream in high schools and are twice as likely to drop out of education and training early.

Access to housing is a serious challenge for migrants and refugees. Foreigners, especially people of African descent and Portuguese nationals, are reportedly often discriminated against when looking for rental accommodation.

In this report, ECRI requests that the authorities take action in a number of areas and makes a series of recommendations, including the following.

Appropriate measures should be taken to strengthen the legal framework, mandate and competences of the Centre for Equal Treatment.*

The authorities should develop a digitalised tool for collecting data on incidents of bullying in schools, in particular with a view to establishing an observatory of bullying incidents in schools, and set up child protection officers within each school to ensure effective follow-up of cases of bullying and violence in schools.

The authorities should take the necessary measures to protect the right of intersex children to physical integrity and bodily autonomy.*

Furthermore, the authorities should take determined steps to establish a comprehensive hate speech monitoring system involving police and prosecution services, courts, equality bodies and civil society organisations providing support to groups of concern to ECRI.

A system of integration indicators should be developed and data collection strengthened to improve integration and reduce discrimination. The authorities should strengthen the provision of language courses for migrants, and set up a monitoring system to assess the impact of courses and adapt them if necessary. In the field of education, forms of support for foreign children or children of foreign parents should be further developed and supplemented to enable them to successfully complete their compulsory education.

In the field of housing, determined measures should be taken, in particular to combat racial discrimination in access to housing, while at the same time increasing initiatives to support people in highly vulnerable situations in the face of the housing crisis, including beneficiaries of international protection.

*This recommendation will be subject to a process of interim follow-up by ECRI no later than two years after the publication of this report.

FINDINGS AND RECOMMENDATIONS

I. EFFECTIVE EQUALITY AND ACCESS TO RIGHTS

A. Equality bodies¹

1. The Centre for Equal Treatment (CET)² and the Ombudsman³ are the two main bodies for the promotion of equality. Promoting equality is the very purpose of the CET while the Ombudsman's terms of reference merely include some functions linked to this aim. One of these institutions' main features is their *de jure* and *de facto* independence from the government.⁴ Another important body in this area is the Advisory Committee on Human Rights (CCDH),⁵ which, although attached administratively to the government, enjoys functional independence in practice, playing a major role in combating discrimination. For a more detailed assessment of the legal framework governing the operations of these institutions, ECRI refers to its previous reports.⁶ In this report, it will focus solely on any changes during the reference period.
2. ECRI welcomes the decision to group the CET, the CCDH and the office of the Ombudsman for children and young people together in a single building called the *Menscherechsthau* (Human Rights House). This measure was taken to facilitate access to institutions championing fundamental rights and improve co-operation between them.⁷ The Ombudsman has not yet moved into the same building as initially planned, because of the need to resolve certain issues relating to guarantees of independence and confidentiality of its activities within the building and to avoid any confusion among the public as to each body's exact function. ECRI trusts that appropriate solutions will be identified quickly and the Ombudsman will be able to join the *Menscherechsthau* without further delay.
3. As to the CET, ECRI welcomes its attachment to the Chamber of Deputies in 2018, which further consolidated its independence.⁸ In July 2020, the Chamber of Deputies adopted a resolution intended to strengthen the CET, as a result of which its resources were increased. For example, its budget rose from €480,842 in 2020 to €639,800 in 2023 and it now has four employees, following the addition of a further lawyer in July 2022.
4. With regard to the CET's mandate, ECRI notes with regret that colour, language, gender identity and sex characteristics still do not figure in the list of grounds protected by the Law on equal treatment.⁹ Although the ground of citizenship was added to the law in 2017, there has been no change in the provision listing the grounds of discrimination on which an application can be made to the CET.¹⁰
5. As to its status and powers, the CET considers that it regularly faces problems in the course of various procedures because it lacks a clear legal status, for example

¹ The term "national specialised bodies" was updated to "equality bodies" in the revised version of GPR No. 2 which was published on 27 February 2018.

² Established by Article 8 of the Law on equal treatment of 28 November 2006.

³ Established by the Law of 22 August 2003 setting up an Ombudsman.

⁴ This chapter will relate only to these two bodies. Readers are referred to ECRI's previous reports for information on other bodies and mechanisms.

⁵ Established by the [Government Regulation of 26 May 2000, then by the Law of 21 November 2008](#).

⁶ See paragraphs 34-45 of ECRI's fourth report on Luxembourg and 18-24 of its fifth.

⁷ The three bodies still have separate secretariats but they now have a common library and shared reception staff.

⁸ See ECRI's recommendation on this subject in its fifth report on Luxembourg, § 24.

⁹ The function of the CET is to deal with discrimination on grounds of race, ethnic origin, sex, sexual orientation, religion or beliefs, disability and age.

¹⁰ In this context, the CET's remit is confined to workers covered by the right to freedom of movement within the European Union (a function added in 2017).

as a public establishment or a corporate entity.¹¹ Its investigating powers are also highly limited.¹² Moreover, the CET's duties are limited to counselling and guidance for victims and do not include the possibility of receiving complaints, filing such complaints before the courts on behalf of victims or intervening in court cases concerning discrimination. Lastly, in most cases no action has been taken on the CET's recommendations to the legislator.¹³

6. The ECRI delegation learnt during its visit that a draft law intended to strengthen the CET's role was being drawn up. ECRI emphasises the importance of introducing such legislation without delay while bearing in mind that any increase in the CET's powers should be combined with the allocation of adequate financial and human resources.
7. ECRI recommends that the authorities, as a matter of priority, take the requisite measures to strengthen the legal framework, the mandate and the powers of the Centre for Equal Treatment in the light of ECRI's General Policy Recommendation No. 2 (revised) on equality bodies to combat racism and intolerance at national level, particularly with regard to the following matters: (i) giving it a clear legal status; (ii) giving it jurisdiction to deal with all relevant grounds concerning equal treatment, including "citizenship"; (iii) giving it the necessary powers to conduct proper investigations; (iv) setting up a system to follow up on its recommendations; (v) giving it the right to have complaints referred to it; (vi) giving it the right to take part in court proceedings and to intervene in judicial proceedings concerning discrimination; and (vii) ensuring that it has suitable resources to perform any new duty.

B. Inclusive education

8. This sub-chapter relates to education policies¹⁴ whose aims are to combat exclusion and marginalisation through an inclusive education devised for all, and to create a society in which diversity is respected in accordance with sections II and III of General Policy Recommendation (GPR) No. 10.¹⁵
9. From the outset, ECRI welcomes the establishment of a course entitled "Life and Society", which deals, amongst others, with human rights, as recommended in its fifth report (§48).¹⁶ The course, which has replaced religious instruction and classes on moral and social issues, is compulsory in elementary and secondary school.¹⁷ One of its aims is to promote tolerance founded on knowledge and learning through a practice leading to reflection and critical thinking.¹⁸ During the visit, the ECRI delegation was informed that the course would be reviewed and updated accordingly. This is a positive development.
10. It should be noted that the school results of pupils from migrant backgrounds or different linguistic and/or socio-economic backgrounds do not seem to have been affected significantly during the Covid-19 pandemic, largely thanks to the measures taken, such as establishing a new educational platform in five

¹¹ CET, [Activity Report 2021](#), p. 36.

¹² In particular, it still does not have any means of forcing its public or private discussion partners to agree to an interview or provide the information it needs within specific deadlines.

¹³ CET, [Activity Report 2021](#), p. 36.

¹⁴ This sub-chapter deals with the education of all children and young people. Measures aimed specifically at migrant children are addressed in the "Integration and Inclusion" section.

¹⁵ ECRI [General Policy Recommendation No. 10](#) on combating racism and racial discrimination in and through school education.

¹⁶ The "Life and Society" course was incorporated into the secondary school curriculum from 2016-2017 on, and in elementary classes from 2017-2018. See the amended Law of 6 February 2009 on the organisation of elementary education and the Grand-Ducal Regulation of 8 September 2016 on guidelines for the joint course on "Life and Society", Article 7.

¹⁷ MENJE (2020).

¹⁸ UN, E/C (2020): 39-40 (E/C.12/LUX/4); EU, EC, European Education and Culture Executive Agency (2017): 32.

languages, lending digital equipment to pupils and setting up a telephone helpline.¹⁹

11. The authorities emphasised that the National Action Plan on Integration for 2018-2023 (PAN integration) includes measures to raise teacher awareness and prepare them to work in an intercultural environment.²⁰ Initial and in-service training is provided on intercultural issues and managing diversity, particularly by the National Education Training Institute (IFEN) and the Intercultural Education Centre (IKL).²¹ In addition, the Rosa Lëtzebuerg association proposes special training courses through the IFEN catalogue to train teachers in an inclusive approach towards LGBTI pupils. ECRI notes, however, that this training is optional and points out that teachers should be given compulsory training on human rights and racist and LGBTI-phobic discrimination. In this connection, ECRI encourages the authorities to draw up, as they were planning to do, a draft law designed to incorporate an intercultural approach into teacher training, and to make such training compulsory.
12. ECRI welcomes the fact that LGBTI associations are invited to schools in the context of activities to foster understanding and respect for LGBTI persons. However, these activities are conducted on request and depend on the willingness of teachers. At the time of ECRI's visit, the government had not yet implemented the activities scheduled for schools as part of the National LGBTI Action Plan (PAN LGBTI) devised in 2018,²² and refers in this respect to chapter I.C. of this report.
13. Likewise, the authorities have not yet implemented a system to monitor LGBTI-phobic incidents at school and introduce appropriate responses, as provided for in the PAN LGBTI. There does seem to be a fairly respectful atmosphere in schools, in particular vis-à-vis LGBTI pupils.²³ However, according to reports to ECRI by civil society representatives, there are frequent racist/xenophobic incidents, which cannot be associated with a particular ideology.²⁴
14. The crisis caused by the Covid-19 pandemic seems also to have led to an increase in cases of bullying at school.²⁵ In this respect, ECRI takes note with interest of the awareness-raising campaign on school bullying and violence launched in 2021.²⁶ ECRI is pleased to note that the School Psycho-Social and Support Service (SePAS) proposes activities to combat school bullying and racist and LGBTI-phobic incidents. It also provides support for pupils who are victims or perpetrators of these incidents. In addition, the School Psycho-Social and Support Centre (CePAS) – which co-ordinates the SePAS – offers training for education staff on preventing bullying and violence. ECRI was informed that CePAS was devising a digitalised tool to collect data on school bullying.
15. ECRI recommends that the authorities devise a digitalised tool for the SePAS with a view, in the medium term, to setting up a school bullying monitoring centre, dealing with incidents, including those involving racism and LGBTI-phobia, and that they formally establish, through legislative measures if necessary, child protection officers in all schools to follow up properly on cases of bullying and violence. These

¹⁹ LUCET (2021) : 25-31 ; OCDE (2022) : 146-156.

²⁰ The VISIBLE project, for example, places the emphasis on measures to promote prevention, understanding and education on disadvantages and discrimination linked to "race" or ethnic origin.

²¹ Over the four school years from September 2018 to September 2022, a total of 510 people were given training over 20 initial and in-service training sessions on the subject.

²² See the first item in the [PAN LGBTI](#).

²³ EU, FRA (2020a): According to the results of an FRA survey carried out in 2019, only 11% of LGBTI pupils in Luxembourg between the ages of 15 and 17 say that they hide their LGBTI identity at school (the European average is 30%). In addition, 68% of this category of pupils say that their peers or teachers have often or always supported LGBTI people (compared to 60% in the EU 28).

²⁴ Rapport d'étude MIFA, p. 150.

²⁵ Paperjam.lu ([2021, 18 February](#)).

²⁶ MENJE ([2021, 15 October](#)).

officers should be trained for the purpose, easy for pupils to approach and authorised to work independently within schools and, where appropriate, in extra-curricular activities.

C. Irregularly present migrants

16. In its GPR No. 16 on safeguarding irregularly present migrants from discrimination, ECRI recommends that governments establish “firewalls” to prevent service providers such as schools and hospitals from sharing the personal data of irregularly present migrants with the immigration control and enforcement authorities. The purpose of such firewalls is to protect these migrants’ fundamental human rights by ensuring that they can access essential public services, such as health care and education, without fear of deportation.
17. It is difficult to obtain figures on the number of migrants who are irregularly present in Luxembourg.²⁷ However, there are partial data on the number of irregularly present migrants who make use of services provided by associations, and these show that the numbers are quite considerable.²⁸ Few of these peoples’ situations have been regularised despite the existence of several relevant legal remedies.²⁹
18. Finding appropriate housing is one of the major challenges for irregularly present migrants. According to the authorities the National Reception Office (ONA) continues to accommodate unsuccessful asylum seekers where necessary. At the end of March 2022, 245 people with this status were housed in ONA facilities, accounting for 6.6% of the people accommodated by the ONA. The ONA can also grant material assistance for a limited time to irregularly present migrants who are still housed in accommodation centres under its authority.
19. As to access to education, proof of address must be produced by pupils’ parents. According to some civil society representatives, many irregularly present migrants prefer not to enrol their children in school for fear of signalling their presence to the police or immigration services. On a positive note, ECRI learnt that the school authorities and the municipality concerned may work together to create a national identification number (*matricule*) enabling such migrants to enrol their children without this being communicated to the law enforcement and immigration authorities.³⁰ ECRI regards this as a **promising practice**.
20. Access to healthcare is based on affiliation to the social security scheme.³¹ Irregularly present migrants can contribute voluntarily if they declare an address in Luxembourg. If they do so, they are declared to the immigration services.³² In practice, the association Médecins du Monde provides emergency and basic care to such migrants and does not forward any information to the police and immigration services. Where specific treatment is required, the association has set up a network of specialist doctors who offer their services free of charge. ECRI

²⁷ Irregularly present migrants in Luxembourg are generally people who have entered the country lawfully and have exceeded the authorised residence limit, or those whose applications for international protection have been rejected.

²⁸ For example, the Immigrant Workers Support Association (ASTI) said that its Migrant Info Kiosk received on average about 350 new cases of undocumented persons per year. In 2019, the organisation Caritas Luxembourg provided support for 175 unsuccessful international protection applicants, 82 irregularly present migrants and 59 people whose removal order had been suspended or deferred. In 2019, the association (MDM) received 345 people who did not have a residence permit (European Migration Network (EMN) (2020), [Responses to long-term irregularly staying migrants: practices and challenges in Luxembourg](#), p. 7).

²⁹ According to the authorities, between 2015 and 2019, 88 residence permits for “exceptionally serious humanitarian reasons” were issued to irregularly present migrants. Such migrants may also be issued a residence permit if they are victims of particularly egregious working conditions. Furthermore, in Luxembourg, the temporary permits issued to irregularly present migrants who cannot be sent back to their country of origin may be converted into permanent residence permits.

³⁰ EMN, [Responses to long-term irregularly staying migrants: practices and challenges in the EU and Norway](#), July 2021, p. 19.

³¹ With the exception of the children of irregularly present migrants, for whom medical costs are entirely reimbursed (*ibid.*, p. 39).

³² [See, on this subject, ASTI – MIPEX recommendations 2020](#), p. 7.

trusts that the association will receive all the support it needs to accomplish its mission.

21. To get closer to the ground and to vulnerable people, the government has announced the introduction of a system of universal healthcare cover (CUSS), in which healthcare provision is not subject to official residence. The system, which is at the testing stage, would enable everyone to join, including the homeless, undocumented and unemployed. Nonetheless, a three-month residence requirement will still be imposed to be entitled to the cover, the aim being, according to the authorities, to avoid the abuses observed in other countries.³³
22. The Covid-19 health crisis has highlighted the vulnerable situation of irregularly present migrants in Luxembourg.³⁴ A number of measures, which ECRI considers to be **good practices**, were taken by the authorities to support this group. In particular, testing and medical treatment for Covid-19 was made available free of charge, regardless of residence status. The authorities also recruited interpreters and ran an awareness-raising campaign on the expanded healthcare services. They also announced that if irregular migrants sought care for Covid-19, this would not lead to their removal.³⁵ NGOs also campaigned for irregularly present migrants to be able to register anonymously with various partners without having to give a social security number.³⁶
23. With regard to access to justice, firewalls concerning irregularly present migrants should be seriously strengthened. In this regard, it is worth noting that in 2021 a migrant woman in an irregular situation filed a complaint against her employer for violence and labour exploitation. She subsequently had her passport confiscated and was issued a removal order because she did not have a residence permit.³⁷ ECRI invites the authorities to ensure that irregularly present migrants have effective access to justice without fear of being subject to a removal order.

D. LGBTI equality³⁸

24. ECRI notes that a FRA survey conducted in 2019 includes responses from 368 LGBTI persons interviewed in Luxembourg, of whom 51% were gay men, 21% lesbian women, 11% bisexual women, 6% bisexual men, 10% transgender persons and 1% intersex persons.³⁹ However, it should also be noted that at national level, data and studies on LGBTI people are still relatively rare. ECRI encourages the authorities to conduct regular studies of this type and improve the collection of data on equality relating to the situation of LGBTI persons, in particular by including LGBTI persons in surveys and studies on discrimination.
25. According to the 2022 Rainbow Map and Index for Europe, Luxembourg ranks 5th out of the 49 countries assessed and has an overall score of 68% for all the indicators relating to the protection of the rights and freedoms of LGBTI persons in law and in practice.⁴⁰

³³ Government of the Grand Duchy of Luxembourg, [Universal Healthcare Cover, press conference of 27 October 2021](#), p. 7.

³⁴ ASTI, [L'ASTI soutient les sans-papiers – les oubliés de la crise](#) (ASTI supports undocumented migrants – the forgotten victims of the crisis), 8 June 2020; see also the report by the CCDH, [La crise sanitaire et ses conséquences : quels impacts sur les droits humains ?](#) (The impact of the health crisis on human rights), pp. 35-36.

³⁵ EMN, [Responses to long-term irregularly staying migrants: practices and challenges in the EU and Norway](#), p. 25.

³⁶ *Ibid*, p. 17.

³⁷ [Justiz-Debakel: Als Opfer rein, als Täterin raus](#) (Debate in court: In as a victim, out as an offender) article published on 1 July 2021 on woxx.lu; ASTI, [Même sans papiers les migrant\(e\)s ont des droits!](#) (Even undocumented migrants have rights!) 9 December 2021.

³⁸ For terminology, see the definitions set out in ECRI's Glossary.

³⁹ EU, FRA (2020c) :103.

⁴⁰ [Country Ranking | Rainbow Europe \(rainbow-europe.org\)](#).

26. ECRI welcomes the general openness of Luxembourg society to LGBTI issues. Several public figures are openly homosexual. Pride marches (GayMat) are organised every year by the LGBTI communities. No particular difficulties were reported in the organisation of such events. It should also be noted that the Catholic Church has shown an open-minded attitude to these issues in the country.⁴¹ More generally speaking, according to the aforementioned FRA survey, 56% of participants said that they were very or relatively open about being LGBTI in their daily life. 12% however felt that they were discriminated against in their work. In this context, ECRI considers that the guide for employers on the creation of inclusive workplaces for LGBTI people published by the IMS network is a **promising practice**.⁴²
27. ECRI welcomes the adoption of the first LGBTI National Action Plan (PAN LGBTI), drawn up in 2018 in co-operation with civil society and containing over 90 measures. However, because of the Covid-19 pandemic, many of the planned activities have had to be postponed. Moreover, before May 2023 there had been no interim review of the implementation of the plan.⁴³ According to the authorities, the University of Luxembourg has been mandated to carry out an initial interim review of the implementation of the plan, the results of which are expected for the second half of 2023. ECRI strongly encourages the authorities to take all the necessary measures to put the planned activities into practice and to take account of the future interim review of the implementation of the plan so as to gauge its impact and make adjustments.
28. The ECRI delegation visited the LGBTIQ+ CIGALE centre, which is a “protected space”, certified by the authorities, providing counselling, guidance and support for anyone with questions on sexual orientation, transidentity, coming out or gender identity. Setting up a space of this sort with the support of the authorities can be considered a **good practice**. However, during the Covid-19 health crisis, the centre’s premises were closed for some months and it was reported that no specific measures were taken to support LGBTI persons during these periods. Yet, during the first period of lockdown for example, the association Rosa Lëtzebuerg reported a 150% increase in the number of LGBTI persons requesting assistance. In this context, it should be noted that the Rosa Lëtzebuerg association has launched two online awareness and information campaigns entitled “*StayAtHome - Discover queer culture*” and “*You are not alone*”. ECRI notes with great interest that a second “protected space” for LGBTIQ+ people (the “Rainbow Center”) was inaugurated in May 2023 following an agreement signed between the authorities and the Rosa Lëtzebuerg association.⁴⁴
29. Since 2015, same-sex couples in Luxembourg have been treated on the same footing as different-sex couples with regard to access to civil marriage and adoption. However, they are not yet entitled to automatic recognition of joint parenthood in connection with assisted reproduction.⁴⁵ The authorities stressed that this was one of the aims set out in the coalition agreement.⁴⁶
30. ECRI recommends that the authorities take the necessary measures without delay to adjust the legislation with a view to granting same-sex couples automatic recognition of joint parenthood in connection with assisted reproduction.

⁴¹ Joint activities between the diocese and the LGBTI community were planned for the first time in 2022. ILGA-Europe (2022) ; Rosa Lëtzebuerg (2021, 26 November) ; Reuters (2022, 3 February).

⁴² [LGBTI inclusion in the workplace](#); ILGA-Europe (2021).

⁴³ Wort.lu (2022, 8 July)

⁴⁴ [Inauguration of the Rainbow Center - Rosa Lëtzebuerg \(rosaletzebuerg.lu\)](#).

⁴⁵ OECD (2020): 2; L'essentiel.lu (2019, 4 January).

⁴⁶ Government of the Grand Duchy of Luxembourg (2018): 21.

31. As to blood donation for homosexual men, ECRI notes that a 12-month period of sexual abstinence is still required. Since January 2021, the Luxembourg Red Cross has authorised homosexuals to give plasma (a blood derivative), which must be “quarantined” for four months before being used.⁴⁷ ECRI encourages the authorities to take the measures called for by the PAN LGBTI as promptly as possible.⁴⁸
32. With regard to transgender persons, the preparation and adoption of the Law on amending the gender and first names entered in the civil register, which came into force on 16 September 2018, is a major step forward and met the expectations expressed by ECRI in a previous recommendation for which priority implementation was requested.⁴⁹ The new law has introduced a simple administrative procedure which is more respectful of a person’s dignity, establishing a form of legal gender recognition which relies solely on self-declaration and is no longer dependent on medical requirements.⁵⁰
33. As to intersex persons, ECRI is pleased to note that, pursuant to the recommendations it made in its fifth report (§94), the authorities launched an awareness-raising campaign in 2018 intended to promote acceptance of intersex persons.⁵¹ It considers it a **promising practice** to introduce a neutral-colour health booklet for children, among other things so as not to discriminate against intersex children, as the authorities plan to do in 2023.
34. According to the authorities, there was a total of three surgical procedures on intersex children over the last five years, all of which were considered medically necessary. However, civil society representatives drew attention to the lack of statistics on such procedures and their necessity, and the absence of any legislation expressly prohibiting surgical procedures which are not vitally necessary on intersex children to enable them to reach an age at which they can decide and give free and informed consent.⁵² ECRI notes in this respect that the coalition agreement⁵³ includes plans to legislate on intersex issues. The authorities informed ECRI that work had begun on this.
35. ECRI recommends, as a matter of priority, that the authorities take the necessary measures to properly protect the right of intersex children to physical integrity and bodily autonomy through i) the introduction of appropriate legislative changes to prohibit the so-called “normalising” genital surgery and other medically unnecessary treatments until the child is able to participate in the decision on the basis of the right to self-determination and the principle of free and informed consent; ii) the development of intersex equality rights guidelines and training for professionals who may be in contact with intersex children, such as teachers and health professionals; iii) the establishment of easily accessible counselling and support services for intersex people and their family.

⁴⁷ Lequotidien.lu ([2022, 14 June](#)); ILGA-Europe (2022); (2021).

⁴⁸ See [PAN LGBTI](#), p. 24: Chapter 3 - Objective 6 – Action 11.

⁴⁹ ECRI (2020), p. 5

⁵⁰ TGEU ([2019, March 7](#)); Intersex & Transgender Luxembourg a.s.b.l. (2018).

⁵¹ In this connection, see also: EU, FRA (2015): 2; OECD (2020): 2.

⁵² See also, UN, Committee on the Rights of the Child (CRC) (2021), CRC/C/LUX/CO/5-6: 3-4, 6.

⁵³ Government of the Grand-Duchy of Luxembourg (2018): 23; 51-52.

II. HATE SPEECH AND HATE-MOTIVATED VIOLENCE

A. Hate speech⁵⁴

Data

36. In its fifth report, ECRI recommended that the relevant authorities establish a system for recording and monitoring racist or homophobic/transphobic incidents and publish these statistics.⁵⁵ ECRI regrets that only limited progress has been made in this respect. The police are most certainly making an effort on the collection of relevant data. However, the criteria for the recording and categorisation of offences are still vague and its computer cataloguing system differs from that of the prosecution service. The capacities of Bee Secure's Stopleveline platform⁵⁶ and of the CET to collect data are limited by the scope of their activities and their duties. The data available are dispersed and are neither harmonised nor disaggregated by type of discrimination.⁵⁷ Nor do the prosecution service or the courts publish relevant data. This situation makes it difficult to gauge the scale of hate speech and the responses to it.⁵⁸
37. In recent years, the Stopleveline platform has recorded a large increase in reports of online hate speech, particularly in the context of the Covid-19 pandemic. Cases reported rose from 122 in 2018 to 219 in 2019 and 292 in 2020,⁵⁹ amounting to an overall increase of 139%. The police have also recorded a clear increase in incidents of this type. From 46 reports in 2018, the number rose to 122 in 2019 and to 191 in 2020,⁶⁰ representing an increase of 315%. Of the 191 cases in 2020, 78 were brought to court as part of an investigation by the anti-terrorist unit and a report to the prosecution service (compared to 60 in 2019 and only 20 in 2018).⁶¹ These figures corroborate the theory of a so-called digitalisation of hate speech in Luxembourg. Furthermore, according to information provided by the authorities, in 2017, 2018, 2019, 2020 and 2021, Luxembourg courts handed down 15, 8, 6, 9 and 5 convictions respectively and 11, 2, 0, 3 and 1 acquittals in cases relating to complaints of hate speech.
38. The problem of underreporting of hate incidents is still widespread. According to the CET's Discrimination Observatory, 90% of supposed victims in 2020 did not bring charges.⁶² The main reasons are said to be a lack of trust in the criminal justice system, the fear of reprisals, the cost of filing a complaint and the length of judicial proceedings, along with the lack of information on victims' rights.⁶³ The authorities gave examples of relevant training courses for police officers⁶⁴ and co-

⁵⁴ For terminology on hate speech and hate crime, see the definitions set out in ECRI's Glossary.

⁵⁵ ECRI's fifth report on Luxembourg, § 35.

⁵⁶ This platform allows users to report online hate speech anonymously. The Stopleveline team conducts an initial analysis on the basis of the Criminal Code before forwarding reports of illegal content to the police. Bee Secure is a government scheme launched in 2009, run by NGOs in partnership with the police and prosecution services.

⁵⁷ Report on a study by the Ministry of Family Affairs, Integration and the Greater Region (MIFA), p. 7; see also [CERD/C/LUX/CO/18-20](#), §17. This gap is filled partly by specialist NGOs, which follow the development of the hate speech against the groups they represent individually.

⁵⁸ Report on the MIFA study, p.7; see also Advisory Committee on Human Rights of the Grand Duchy of Luxembourg, [Rapport parallèle au Comité des Nations Unies pour l'élimination de la discrimination raciale en préparation de l'examen du rapport du Luxembourg](#), (shadow report for the UN Committee), 21 March 2022, p. 3.

⁵⁹ See the activity reports of Bee Secure for [2018](#) (p. 12), [2019](#) (p. 25) and [2020](#) (p. 23). Online hate incidents recorded for [2021](#) also numbered 291.

⁶⁰ Report on the MIFA study, p. 128.

⁶¹ *Ibid.*

⁶² [Discrimination Observatory 2020 – CET](#), p. 11. See also the data concerning the significant underreporting of Islamophobic incidents in the reports of the Luxembourg Islamophobia Observatory (OIL) for [2019](#) (p. 20) and [2020-2021](#) (p.30).

⁶³ [Discrimination Observatory 2020 – CET](#), p. 11; report on the MIFA study, p. 94.

⁶⁴ The training course entitled "Combating online hate speech", held by the Green European Foundation is one of the examples that was given.

operation with civil society, particularly in the context of Bee Secure.⁶⁵ ECRI therefore invites the authorities to continue their efforts to institutionalise this type of cooperation, in particular by regularly organising a round table allowing for in-depth dialogue with all the civil society actors concerned and the public bodies specialising in the fight against racism and LGBTIphobia.⁶⁶

39. ECRI notes that the main targets of hate speech have fluctuated considerably according to current political events, and hate speech is mostly found in extreme right circles and/or, particularly in the context of the Covid-19 pandemic, in “anti-system” stances and conspiracy theories.⁶⁷ Based on these observations, many of the people ECRI talked to, particularly those from civil society, talked of their concerns about a possible new wave of hate incidents which could emerge in the run-up to the parliamentary elections, scheduled for October 2023. In this context, ECRI invites the authorities to ensure that all political parties are encouraged to put in place specific policies to address and combat hate speech, including in the context of election campaigns, drawing inspiration from ECRI's General Policy Recommendation No. 15 on combating hate speech, Recommendation CM/Rec(2022)16 of the Committee of Ministers of the Council of Europe on combating hate speech.
40. ECRI notes that many Black people can feel that they are the targets of hate speech. The FRA survey “Being black in the EU” found that 52% of the persons of African descent in Luxembourg questioned reported that they had been victims of racist harassment in the five years preceding the survey.⁶⁸ Furthermore, according to the relevant MIFA report, 48.3% of residents thought that discrimination on the ground of colour was widespread.⁶⁹ A larger proportion of Black people consider themselves to be victims of discrimination on social networks (26.6%) than the general population (11.2%) and 38.4% of Black people fear becoming the victims of incidents because of their ethno-racial background.⁷⁰
41. According to surveys conducted by the Observatory on Islamophobia (OIL),⁷¹ feelings of hostility towards Muslims seem to have considerably increased during the pandemic. In 2020, 25.8% of participants said that they had been victims of acts targeting Muslims (compared to 17.6% in 2019 and 16.7% in 2021), while 30% had observed such acts without being directly targeted (compared to 27.68% in 2019 and 18.67% in 2021)⁷². In 2021, racism towards Muslims was observed mostly in the workplace (68%), social networks (36%), education or training (32%), the media (24%) and in public places (24%).⁷³ Appearance plays a significant role: Muslim women wearing a veil are reported most often to be victims of hate incidents. In 2019, public places were vandalised with slogans such as “Fuck Moslem” and “Islam = Nazi”.⁷⁴ More recently, a Muslim man reported to the human resources department in the company for which he worked that he had been suffering harassment for several years (including pigs’ ears

⁶⁵ A written agreement between the Grand-Ducal Police, the National Youth Service and the Kanner-Jugendtelefon governs the collaboration between the Grand-Ducal Police and BEE SECURE.

⁶⁶ See, in this respect, ECRI's fifth report on Luxembourg, § 37.

⁶⁷ Grand-Ducal Police, [activity report 2021](#), p. 31.

⁶⁸ [Being Black in the EU | European Union Agency for Fundamental Rights \(europa.eu\)](#), p.15.

⁶⁹ Report on the MIFA study, p. 38.

⁷⁰ *Ibid.*, pp. 57-58.

⁷¹ A civic initiative set up during the reference period in response to the persistent rise in racism towards Muslims in Luxembourg.

⁷² See the OIL reports for the years [2020-2021](#) (p. 30) and [2019](#) (p. 20).

⁷³ OIL report for the years [2020-2021](#) (p. 42)

⁷⁴ *Ibid.*, p. 34.

- hung on his locker). In response, he was told either to leave the company or to keep quiet (“to live a happy life, you have to live in hiding”).⁷⁵
42. As to antisemitism, in 2021, the association Research and Information on Antisemitism in Luxembourg (RIAL) recorded 80 antisemitic acts (compared to 64 in 2020, 47 in 2019 and 26 in 2018)⁷⁶. It also identified online hate speech, particularly on Facebook (65 incidents in 2021) and incidents in public spaces (which rose to 11 in 2021).⁷⁷ A report drawn up by the Commission of the European Union stated that online antisemitic incidents shot up alarmingly in 2020, with a sevenfold increase in antisemitic content in French and a thirteenfold one in German – a direct consequence of the association made by Covid-19 deniers and conspiracy theorists between the pandemic and the Holocaust.⁷⁸ Political leaders were not spared by this. In 2019, the antisemitic insult “Juddepak” was published on the Facebook page of the Minister of Family Affairs, Integration and the Greater Region, who is Jewish.⁷⁹ In 2021, the Minister had to leave her home with her children to protect herself from persons demonstrating in front of her house.⁸⁰
43. Xenophobic feeling also grew significantly during the pandemic. According to the CET, in 2021, for the first time, ethnic origin ranked first in the grounds of discrimination given by applicants (60 cases, or 24%).⁸¹ The most frequently targeted groups were the main national groups living in Luxembourg, namely Portuguese nationals, people from the Balkans (who mostly arrived during the wars in former Yugoslavia in the 1990s) or persons with the nationality of one of the three border countries.⁸² Experts also note that there are prejudices in Luxembourg against communities of foreign persons of Roma origin, who are described as “beggars” (“*mendiants*”).⁸³ Political personalities associated with the ultra-nationalist right-wing party *Alternativ Demokratesch Reformpartei* (the Alternative Democratic Reform Party, ADR) have continued to create fertile ground for xenophobic messaging to take root, particularly through comments aimed at the former president of the NGO ASTI or the spokesperson of the NGO Finkapé.⁸⁴
44. LGBTI people have also been victims of verbal attacks, particularly in politics. In 2018, a homophobic question put by a member of the ADR prompted strong reactions. The member asked in particular whether it was normal for children aged eleven to see the play “*Ein Känguru wie du*” (A kangaroo like you), which covered homosexuality.⁸⁵

⁷⁵ OIL report for the years 2020-2021, p. 47.

⁷⁶ According to representatives of the Jewish community in Luxembourg, this increase could also be partly explained by a better ground cover in recent years.

⁷⁷ RIAL, 2021 Report, pp. 8-28. See also “[Il faut se souvenir, il en va de notre démocratie](#)”, an article on the need to remember the Shoah, published on wort.lu on 27/01/2022.

⁷⁸ RIAL, 2021 Report, pp. 8-28.

⁷⁹ [Luxembourg : une amende de 1 000 € pour incitation à la haine sur Facebook](#) (A €1 000 fine for incitement to hatred on Facebook), article published in The Times of Israël on 03 November 2019.

⁸⁰ RIAL, 2021 Report, p. 28.

⁸¹ CET, [2021 activity report](#), p. 29.

⁸² MIFA study report, p. 174.

⁸³ MIFA study report, p. 175.

⁸⁴ [Halte au discours de haine dans la politique luxembourgeoise ! \(Stop hate speech in Luxembourg politics!\) - ASTI](#), March 2021; [La riposte des Tribunaux \(The courts' riposte\)](#), article published on land.lu on 15 January 2021; [Son agresseur condamné à 1.500 euros d'amende Une victoire en demi-teinte pour Antónia Ganeto \(Antónia Ganetto's attacker ordered to pay a €1500 fine – a half victory for her\)](#), article published on tageblatt.lu on 27 January 2021.

⁸⁵ [Une question parlementaire de Fernand Kartheiser suscite un tollé](#) (A parliamentary question put by Fernand Kartheiser provokes a general outcry), article published on wort.lu on 7 December 2018; [Une question parlementaire aux relents homophobes](#) (A parliamentary question smacking of homophobia), article published on paperjam.lu on 10 December 2018).

45. ECRI recommends that the authorities take decisive measures to set up a comprehensive system to monitor hate speech. These measures should involve the police and prosecution services, courts, equality bodies and civil society organisations providing support for the groups falling within ECRI's mandate. In doing so, the authorities should take due account of paragraph 3 c) and d) of ECRI's General Policy Recommendation No. 15 on combating hate speech and paragraph 58 of Recommendation CM/Rec(2022)16 of the Committee of Ministers to the member States on combating hate speech.

- **Responses to hate speech**

46. ECRI is pleased to note that a number of surveys, mainly based on the statements and feelings of participants have been conducted in Luxembourg to understand more about the phenomena of hate speech and discrimination. Among these, ECRI attaches particular importance to an in-depth study commissioned by the Department of Integration of the Ministry of Family Affairs, Integration and the Greater Region (MIFA), on which the report was published in March 2022.
47. ECRI also welcomes the recent appointment by the Luxembourg government of an Interministerial Delegate for “the co-ordination of policies to combat racism, antisemitism and anti-LGBTIQ+ hate”. The exact scope of the Interministerial Delegate's duties was still to be decided on when ECRI visited but they clearly include the expansion of the national strategy to combat antisemitism.⁸⁶ ECRI was pleased to note that the Interministerial Delegate also intends to establish co-operation with civil society as part of his activities.
48. It is encouraging to note that most Luxembourg politicians do not engage in hate speech. There are also instances of counter-speech. However, many agree that there is still room for improvement. For example, in 2018, in reply to a parliamentary question deemed to be homophobic regarding the play “*Ein Känguru wie du*” (A kangaroo like you), the Minister of Education posted a reply on his Twitter account denouncing all forms of intolerance. This reply was subsequently published on the site of the Chamber of Deputies and many deputies posted a kangaroo decked out in rainbow colours on social networks showing their support for LGBTI communities.
49. Furthermore, in November 2021, a debate was initiated in the Chamber of Deputies by the majority parties following events including hate speech targeting the former President of ASTI.⁸⁷ However, despite resolutions noting, in particular, the need to amend the deputies' code of conduct so as to include provisions on hate speech, no action appears to have been taken.
50. With regard to victim support, despite the existence of a victim support department (SAV) at the prosecution office, ECRI's civil society partners agree that in reality, victims of hate speech receive practically no psychological help, either to overcome their trauma or to encourage them to press charges. As to legal assistance, victims can call on one of the associations which, having satisfied certain criteria, have been given the power to exercise rights granted to victims before the civil or administrative courts (as “certified non-profit associations”). Five such associations have this certification in relation to racial discrimination cases but to date, only two have exercised it.⁸⁸ This makes it all the more necessary to grant the CET the right to bring legal proceedings and to

⁸⁶ CCPR/C/SR.3881, p. 6.

⁸⁷ ASTI, [Tout discours de haine doit être sanctionné!](#) (All hate speech should be punished), 21 November 2022; [La haine en ligne, un phénomène qui s'amplifie](#) (Online hate – a growing phenomenon), article published on paperjam.lu on 17 November 2021. Prior to this debate, the political party déi Gréng posted a video on social media condemning hate speech.

⁸⁸ MIFA study report, p. 94.

promote it as the best institution to support victims of hate speech and discrimination in all legal fields.

51. With regard to tackling hate speech in the media, the picture is mixed. From a regulatory viewpoint, the Law of 26 February 2021 extended the responsibility of video-sharing platforms, which must now take measures to protect the general public from content containing incitement to violence or racial hatred. The Independent Audiovisual Authority of Luxembourg (ALIA)⁸⁹ is tasked with supervising compliance with the new provisions of the law. It should be said however that the new provisions only create an obligation to moderate content. It should also be noted that incitement to hatred can be found in many spheres other than the Internet. ECRI considers it regrettable that the ALIA still contributes little to the fight against hate speech spread via the audiovisual media.⁹⁰
52. In the area of self-regulation, the government regulation “on the system for the temporary promotion of online journalism”⁹¹ grants financial support to on-line press outlets but only if they have set up proper systems to combat illegal content on spaces for private posts. In 2017, the Press Council (CdP) and Bee Secure drew up a “Netiquette” guide, in other words a code of good conduct for Internet users when drafting on-line comments,⁹² to which all the media bodies recognised by the CdP have subscribed. To curb the proliferation of hate speech online, Bee Secure has also launched the awareness-raising campaign, #NOHATEONLINE.⁹³ ECRI welcomes these two initiatives, which it regards as **promising practices**.
53. Despite these efforts there are still major gaps. Discrimination and hate speech are not among the topics addressed during the training course for new journalists. Although the CdP has published a directive for journalists calling on them to avoid discriminatory coverage,⁹⁴ there does not seem to be any follow-up to monitor compliance. Furthermore, according to ECRI’s civil society partners, there are no co-ordinated efforts to moderate online hate speech. As to the CdP’s potential to punish hate speech, it emerged during the visit that no action had been taken on ECRI’s recommendation to give the CdP the right to open proceedings on its own initiative.⁹⁵ Consequently, in recent years, the CdP has had to deal with only one complaint for “ethno-racial” discrimination.⁹⁶
54. ECRI recommends that (i) the revision of the regulatory framework for the media should continue so as to prevent and eliminate hate speech proffered there, with due regard for the independence of the media and extending beyond the online media, and ensure that these regulations are fully implemented in practice; (ii) the Press Council be granted the right to open proceedings on its own initiative and be able to take decisions on any of the printed media; (iii) more

⁸⁹ The public audiovisual and sound media supervisory body.

⁹⁰ Over the last five years, ALIA has not once taken action on its own initiative in relation to ethno-racial discrimination, and it has delivered only one decision following a complaint, in which it condemned the broadcast of an advert “tending to make light of Nazi ideology” and imposed a fine of €1 500. See also the fifth report on Luxembourg, § 41.

⁹¹ The regulation was introduced in 2016 ([La si fragile crédibilité](#) (The wavering credibility of the media), article published on land.lu on 16 December 2016) and amended in 2021 ([Government Regulation of 5/02/2021 on the system for the temporary promotion of on-line journalism](#)).

⁹² In particular, [Netiquette](#) invites Internet users to abide by certain rules, including a ban on posting comments inciting others to violence or hatred. If these rules are not observed, the signatories of Netiquette reserve the right to remove comments, block access to their site by the persons concerned or take any other appropriate measure.

⁹³ More specifically, users assess potentially hateful comments, and it is necessary to determine what phrases can be considered illegal, or not. It should be noted that the sample comments used in the survey derive from actual comments reported previously to the Bee Secure Stipline.

⁹⁴ MIFA study report, p. 102. The directive invites the press in particular only to indicate “a person’s racial background, religion, nationality or ethnicity if this information is essential to understand the facts or where it has a direct link with the news”.

⁹⁵ Fifth report on Luxembourg, § 45.

⁹⁶ According to the representatives of the CdP, the Complaints Committee reprimanded the media outlet in question.

encouragement be given to organising instruction for media professionals and journalists as part of their initial and in-service training on means of recognising and reporting hate speech and responding to it, and on means of preventing its use and dissemination, in the light of Recommendation CM/Rec(2022)16 of the Committee of Ministers of the Council of Europe on combating hate speech.

55. Criminal proceedings concerning hate speech are based on Articles 454 to 457-4 of the Criminal Code.⁹⁷ ECRI welcomes the addition of gender identity to the list of characteristics protected against incitement to hatred.⁹⁸ However, it regrets that language does not figure in this list of grounds and invites the authorities to take measures to this effect.
56. Luxembourg courts have given a number of important decisions condemning hate speech in recent years, particularly in the case referred to in paragraph 34. Furthermore, in March 2022, a right-wing extremist was sentenced to 12 months' imprisonment and a fine of €2 000 following numerous convictions for incitement to hatred.⁹⁹ However, in January 2023, the courts acquitted on appeal a Luxembourg lawyer, who, in 2015, had published an extremely violent open letter in the press complaining about Roma beggars of Romanian citizenship present in Luxembourg, along with the media outlet which had published this letter.¹⁰⁰
57. ECRI notes that whereas court cases relating to hate speech have almost quadrupled in recent years, the number of convictions is still low, with six decisions on the merits in 2021, 12 in 2020, 6 in 2019, 10 in 2018 and 26 in 2017. Various interlocutors called into question the quality of the police reports that establish the facts of these cases. In their view, the quality of these reports can have a major impact on the admissibility of complaints relating to hate incidents. In this connection, the ECRI delegation learnt that no tools had been devised to help police officers identify racist or LGBTI-phobic grounds when they interviewed victims or witnesses, or recorded hate incidents. According to the authorities, this could be explained by the fact that, until the recent inclusion of a general aggravating circumstance for offences motivated by prejudice in the Luxembourg Criminal Code, police officers working at local police stations did not have to reveal the potential hate motivation of offences.
58. ECRI recommends that the relevant authorities draw up and make available to police officers a questionnaire designed to help them to identify discriminatory grounds when interviewing victims or witnesses of hate-speech-related incidents with a view to improving the quality of reports establishing the facts.
59. ECRI is pleased to note that the MIFA has negotiated an agreement with the association *Respect.lu*, which works in particular to prevent online hate speech through various awareness-raising and training projects, and which also provides support for radicalised persons and perpetrators of hate speech. In 2020, this association launched a programme entitled "Dialogue instead of hate", which is intended for people who have gained a reputation for publishing hate speech online and offers an alternative to criminal sanctions or support in the context of criminal proceedings. In 2021, the association dealt with 49 cases and supported 16 people in the context of the programme.¹⁰¹ According to the authorities, those

⁹⁷ [Criminal Code](#), consolidated version applicable from 01/01/2023 onwards; see, in particular, Chapter VI entitled "Racism, revisionism and other forms of discrimination". Article 457-1.1 of the Criminal Code also makes incitement to the hatred, violence and discrimination referred to in Article 455 a criminal offence. The law provides for a prison sentence of eight days to two years and/or a fine of €251 to €25 000 for the perpetrators of such offences.

⁹⁸ See, in particular, Article 454 of the Criminal Code.

⁹⁹ [Hate crime: Far-right extremist Pierre Peters receives fine and prison sentence, article published on today.rtl.lu on 11 March 2022](#). The court decided against a suspended sentence because of the offender's former convictions.

¹⁰⁰ See also paragraph 29 of the fifth ECRI report, which refers to the case. The prosecution service had called for a fine of at least €2 500. It should be noted that the judgment becomes final only after eight years.

¹⁰¹ [Respect.lu, Annual report – 2021](#), p. 12.

who chose to take part in it have had a positive experience of the programme, which has helped to reduce the risks of re-offending. ECRI considers this to be a **promising practice**.

B. Hate-motivated violence

60. Various people the ECRI delegation spoke to said that hate-motivated violence is not a major issue in Luxembourg. Nonetheless, Luxembourg has never submitted statistics on hate crime to the OSCE/ODIHR.¹⁰² Despite problems linked to their categorisation¹⁰³ and the persistent problem of underreporting of which the ECRI delegation heard evidence during our visit, the data collected by the Grand-Ducal Police on “racial discrimination” make it possible to detect a steady increase in this type of incident in recent years (from 21 incidents in 2016 to 28 in 2017, 43 in 2018, 55 in 2019 and 92 in 2020).¹⁰⁴
61. According to the second EU survey on minorities and discrimination published in 2018, in the five years preceding the survey, 11% of the persons of African descent questioned in Luxembourg said that they had been subject to racist violence, which was the fourth highest score in the EU.¹⁰⁵
62. ECRI notes that in 2019, 2020 and 2021 respectively, 1.85%, 5.13% and 3.57% of Muslims who took part in the aforementioned OIL surveys reported that they had been victims of physical assault because of their real or supposed association with the Muslim community. In addition, 1.85%, 10.26% and 32.14% said that they had been threatened.¹⁰⁶
63. In a FRA survey carried out in 2019, 10% of LGBTI participants in Luxembourg said that they had been subject to physical or sexual assault in the 12 months preceding the survey because they belonged to the LGBTI community. Of these, only 2% went to the police after these incidents (compared to an average of 14% in the EU).¹⁰⁷ In 2019 a gay French man said that he had been assaulted in the neighbourhood of the station in Luxembourg after a Pride march. He called for help, but nobody came to help him. The incident was subsequently reported to the police.¹⁰⁸
64. Despite ECRI’s long-standing recommendation on the subject,¹⁰⁹ until recently, the Luxembourg Criminal Code contained no provision for a general aggravating circumstance for offences motivated by prejudice.¹¹⁰
65. In June 2019, the Minister of Justice had indeed recognised that the country was lagging behind on this issue.¹¹¹ In December 2021, the European Commission opened infringement proceedings against Luxembourg because of this shortcoming.¹¹² In June 2022, the Minister of Justice presented the parliamentary commission on justice with a draft law intended to incorporate an aggravating

¹⁰² [Luxembourg | HCRW \(osce.org\)](#).

¹⁰³ No distinction is made in the data collected between hate speech and criminal offences motivated by hate (MIFA study report, p. 127).

¹⁰⁴ *Ibid.*

¹⁰⁵ [Being Black in the EU | European Union Agency for Fundamental Rights \(europa.eu\)](#), p. 13.

¹⁰⁶ See the OIL report for the years [2019](#) (p. 29) and [2020-2021](#) (pp. 39, 41).

¹⁰⁷ [EU LGBTI survey II: A long way to go for LGBTI equality](#), p. 2.

¹⁰⁸ [Luxembourg : un homme victime d'une violente agression homophobe](#) (Violent homophobic assault), article published in [lequotidien.lu](#) on 25 October 2019.

¹⁰⁹ This recommendation was first made by ECRI in its second report on Luxembourg in 2002 (§ 8). It was reiterated in its last report in 2016 (§ 6).

¹¹⁰ EU, FRA (2018), [Hate crime recording and data collection practice across the EU](#), pp. 68-69.

¹¹¹ [Agressions LGBTphobes : un durcissement des sanctions attendu](#) (LGBT-phobic assaults – tougher sanctions expected), article published in [lequotidien.lu](#) on 18 June 2019.

¹¹² [December infringements package: key decisions \(europa.eu\)](#).

circumstance into criminal law for a fact qualified as an offence committed on the ground of one of the characteristics protected by Article 454 of the Criminal Code.¹¹³ In April 2023, the Act of 28 March 2023 supplementing the Criminal Code by introducing a general aggravating circumstance for crimes, offences and misdemeanours committed with a motive based on one or more of the elements referred to in article 454 of the Criminal Code came into force.¹¹⁴ ECRI welcomes this development, and the fact that the CET was consulted beforehand. ECRI notes, however, that no follow-up has yet been given to certain important recommendations made by the CCDH¹¹⁵ and the CET¹¹⁶ in their respective opinions on this matter. ECRI also trusts that, following the entry into force of the new provisions, the authorities will organise appropriate training courses and, if necessary, produce suitable tools so that police officers, prosecutors and judges can make the best possible use of this new legislative framework.

III. INTEGRATION AND INCLUSION

A. Migrants

66. Foreigners make up nearly half of Luxembourg's population. In January 2022, the population was 645 497, of which 304 167 were foreigners (47.1%). Although more than 175 different countries are represented,¹¹⁷ most foreign nationals (80.8%) are EU citizens from countries such as Portugal (30.8%), France (16.2%), Italy (7.9%), Belgium (6.4%) and Germany (4.2%). The largest groups of (non-EU) third country nationals¹¹⁸ come from the United Kingdom, China, India, Montenegro, Brazil, Cabo Verde and Syria. Approximately 73% of the population identify themselves as Christians (69% of whom are Catholics), while Muslims form the country's second largest religious community, accounting for about 2-3% of Luxembourg residents.¹¹⁹ In February 2022, there were 5 158 people with refugee status and 1 580 asylum seekers in Luxembourg. The three main countries of refugee origin were Syria, Eritrea and Iraq, while asylum seekers predominantly came from Syria, Eritrea and Afghanistan.¹²⁰ The situation of all these various categories of foreign nationals will be addressed in this chapter. With regard to persons fleeing the war in Ukraine from March 2022 onwards, reference is made to Chapter III.B below.

Legislation and co-ordinated policies

67. Luxembourg legislation defines integration as "a two-way process" requiring an active contribution from both migrants and society. It emphasises the role to be played by the State, local authorities and civil society. It also provides for two

¹¹³ See the explanatory memorandum to draft law No. 8032, p. 3. See also the [press release](#) of 22 June 2022. The draft law intends to incorporate a new Article 80 into the Criminal Code, which will be worded as follows: "Anyone who has committed a fact qualified as a crime or offence on account of one of the characteristics referred to in Article 454 may be sentenced to twice the maximum period of imprisonment or fine provided for in law for this crime or offence, subject to the limits set out in Articles 7 and 14".

¹¹⁴ See, in particular, new [Article 80](#) of the Luxembourg Criminal Code.

¹¹⁵ CCDH, [Opinion 02/2023 on draft law No. 8032](#).

¹¹⁶ CET, [Opinion of 5 September 2022 on draft law No. 8032](#).

¹¹⁷ [LUSTAT Data Explorer • Population by nationalities in detail on 1 January](#) (statec.lu).

¹¹⁸ Within the foreign population, the proportion of third-country nationals has increased over time from 7.4 percent in 1981 to 19.2 percent in 2022: MIFA et al. (2022):1; [LUSTAT Data Explorer • Population by nationalities in detail on 1 January](#) (statec.lu).

¹¹⁹ Nearly 25% of the population say they have no religious affiliation. [Home - Religion in Luxembourg; Practising your religion in Luxembourg: \(justarrived.lu\); The population in Luxembourg: who lives in Luxembourg? \(justarrived.lu\)](#). According to STATEC, there is a secularisation in society marked by a strong decline in the number of people claiming traditional religious beliefs and practices, in particular Catholicism: [Invitation Séminaire Economique : pratiques religieuses Luxembourg \(comgouv.lu\)](#).

¹²⁰ <https://www.unhcr.org/uk/623469c9f.pdf>.

separate integration programmes:¹²¹ the “Welcome and Integration Contract” (CAI), open to all foreign residents aged 16 and over and the “Accompanied Integration Pathway” (PIA), open to Applicants for International Protection (AIP) and Beneficiaries of International Protection (BIP) aged 18 and over.¹²²

68. ECRI notes that the CAI programme has difficulties in attracting its target group, despite the fact that completion of the course counts towards the application for long-term resident status and citizenship “by option”. It fails to reach migrants in very vulnerable positions, such as low-skilled people from non-EU regions.¹²³ According to the authorities, making it possible to register for the Welcome and Integration programme via the *MyGuichet.lu* portal from July 2022 onwards led to an uptick in applications.¹²⁴ ECRI encourages the authorities to carry out a review of the programme in order to identify the factors that may explain the low take-up rate and to take any necessary measures in this respect.
69. As regards the PIA, according to the authorities, it is impossible to comment on the participation rate over the last five years. However, in 2022, 89% of applicants for international protection have joined the programme. Nevertheless, ECRI understands that although the PIA was intended to be a three-stage programme, in practice it has never been fully implemented.¹²⁵ During the visit, the authorities informed the ECRI delegation that the PIA would be updated in the near future. ECRI calls on the authorities to ensure that all stages of the programme are set up and functioning properly, to use appropriate tools to facilitate joining and completing the programme (and to make them available online) and to carry out a review in due course.
70. ECRI is pleased to note that the authorities offer language courses to migrants as part of both integration programmes (CAI and PIA). Under the PIA, participants are entitled to between 120 and 480 hours of free language tuition, depending on their linguistic profile. CAI participants are entitled to discount vouchers for approximately 180 hours of language training in their choice of one of the country’s three official languages.¹²⁶ However, ECRI was informed that the language courses offered to migrants under both programmes were still unsatisfactory, especially in terms of the number of hours provided and the language levels targeted. Moreover, no guidance is provided to help migrants to choose the language and training courses best suited to their needs. Several civil society partners also pointed out that content of the courses was not necessarily relevant to the labour market.¹²⁷
71. ECRI recommends that the authorities improve the provision of language courses for migrants by (i) introducing an advisory and guidance service, (ii) adapting the course content to facilitate access to employment, (iii) extending the duration of the courses and raising the target language levels, while taking into account

¹²¹ According to the Law of 4 December 2019 establishing the National Reception Office (ONA); the amended Law of 16 December 2008 on the integration of foreigners in the Grand Duchy of Luxembourg; and the amended Law of 18 December 2015 on the reception of applicants for international protection and temporary protection.

¹²² ECRI notes that a bill relating to intercultural living together was tabled to the Chamber of Deputies on 20 February 2023. It aimed at updating the amended law of 8 March 2017 on the Luxembourgish citizenship, in particular by adding to its article 29 the “Citizen Pact” as an alternative to the “CAI” to access citizenship: <https://wdocs-pub.chd.lu/docs/exped/0137/058/274584.pdf>.

¹²³ At the time of the visit, less than 10% of eligible migrants had been enrolled. For example, only 1 664 foreigners had signed the contract by 2019, 62% of whom were EU nationals, while more than 20 000 migrants enter Luxembourg each year: OECD (2021a): 25. According to the authorities, in total, 6 875 people signed a CAI in the past five years.

¹²⁴ *Lequotidien.lu* (2022, 7 July).

¹²⁵ OECD (2021a): 8-9; [Accompanied Integration Pathway - PIA - Living together in my municipality \(integratioun.lu\)](#); [The accompanied integration pathway urgently needs to be relaunched! - ASTI](#); *Lequotidien.lu* (2021, 6 November).

¹²⁶ Language courses are also provided by associations, schools and the university.

¹²⁷ OECD (2021a): 7; 27-28.

international guidelines¹²⁸ and (iv) setting up a monitoring and evaluation system with a view to making any necessary adjustments and changes.

72. ECRI also welcomes the adoption in 2018 of a new National Action Plan on Integration (PAN Integration) for the reception and social support of persons seeking international protection and the integration of all non-Luxembourg nationals residing in the country,¹²⁹ through which the authorities have fully implemented ECRI's recommendation from its previous report.¹³⁰ In addition, ECRI acknowledges the authorities' efforts to implement the action plan in co-operation with civil society.¹³¹ However, during ECRI's visit it was noted that the mid-term review of the implementation of the plan had not yet been carried out. Contrary to the original plans,¹³² no clear impact assessment indicators have been drawn up to determine whether goals have been reached. ECRI strongly encourages the authorities to introduce and publicise indicators and carry out regular monitoring of the implementation and impact of the measures provided for in the plan.
73. Gaps remain in the collection of data on equality, particularly with a view to ensuring appropriate monitoring of integration policies, despite the existence of numerous administrative sources scattered across various ministries.¹³³ ECRI considers that these databases should be merged in order to gain a fuller insight into the integration of migrants in Luxembourg.
74. ECRI recommends that the authorities develop an appropriate system of integration indicators and improve the collection of data on equality in various areas of public policy, with the sole purpose of assessing progress and challenges in the integration of all migrants living in the country, while ensuring that the principles of confidentiality, voluntary self-identification and informed consent are maintained. It should also take into account any multiple or intersectional discrimination that may exist.
75. At the State level, the National Reception Office (ONA), established by the Law of 4 December 2019,¹³⁴ is the body responsible for the reception of migrants, while integration falls with the remit of the Ministry for Family Affairs, Integration and the Greater Region (MIFA). There is also an interministerial committee bringing together 13 ministries, two state bodies and five civil society stakeholders (ASTI, the Centre for Intercultural and Social Studies and Training - CEFIS, the Liaison Committee for Associations of Persons of Immigrant Origin - CLAE, Caritas Luxembourg and the Luxembourg Red Cross), which is responsible for selecting pilot projects to receive funding under the National Action Plan on Integration.
76. ECRI is pleased to note that foreign nationals participate in the work of advisory bodies both at national level, in the National Council for Foreigners, and at local level, in the advisory committees on integration that each municipality is required to set up¹³⁵ in order to identify and develop solutions for local integration. Municipalities are also encouraged to implement a Communal Integration Plan (PCI). Only a few municipalities (20 out of 102) have implemented a PCI or have

¹²⁸ See, for example OECD (2021b); UNESCO (2018); [Language support to adult refugees: the Council of Europe toolkit](#).

¹²⁹ These two areas are supplemented by the following three cross-sectoral lines of action: access to information and interaction; the quality of services; and national and international co-operation and co-ordination.

¹³⁰ ECRI, Conclusions (2020), p. 5.

¹³¹ See also OECD (2021a): 36.

¹³² [National Action Plan on Integration](#), p. 6: "The objectives of the PAN Integration will have clear indicators."

¹³³ OECD (2021a): 47-48; 7.

¹³⁴ Under the new Law of 4 December 2019 amending immigration law, which came into force on 1 January 2020, the [ONA replaced the Luxembourg Reception and Integration Agency \(OLAI\) established in 2008](#).

¹³⁵ According to Article 23 of the Law of 16 December 2008 on the reception and integration of foreigners.

pledged to do so.¹³⁶ The municipality of Esch-sur-Alzette, which the delegation visited while in Luxembourg, is one of them. It should be noted that the Intermunicipal Forum on Integration (GRESIL), set up to promote the exchange of experience, could be recognised as a **good practice**.

77. ECRI also notes with interest the conclusion of the “Living Together Pact” signed in 2021 and in 2022 between the MIFA and 31 municipalities that wish to commit to local integration, with a view to providing the latter with greater support through integration counsellors.
78. Furthermore, ECRI notes that the new Law of 8 March 2017 on citizenship aims to make it easier for foreigners living in the country to acquire Luxembourg citizenship through naturalisation and ultimately to increase their political participation.¹³⁷ Foreigners may now apply for naturalisation after five years of residence instead of after the seven years previously required. The new law also enables persons born in Luxembourg to parents of foreign nationality to acquire citizenship from the age of 12.¹³⁸ ECRI welcomes the progress that has been made.
79. ECRI also welcomes the fact that all non-Luxembourg residents of voting age (regardless of their citizenship) now have the right to vote and to stand for municipal elections under the Law of 22 July 2022, which abolished the five-year residency requirement.¹³⁹ In addition, ECRI notes that the authorities have launched an information and awareness-raising campaign (entitled “I can vote”) for foreigners living in Luxembourg. The aim of the campaign is twofold: to inform foreign residents of their right to vote and the relevant conditions and to encourage them to register on the electoral rolls.
80. With regard to family reunification, ECRI notes that the Law of 16 June 2021 extended the deadline for beneficiaries of international protection to submit an application for family reunification from three to six months.¹⁴⁰ However, concerns have been expressed that the new deadline is too short. ECRI therefore encourages the authorities to allow for some flexibility in the processing of applications.¹⁴¹

Education

81. ECRI is pleased to note that all children living in Luxembourg are entitled to 12 years of free and compulsory education (from the age of 4 to 16).¹⁴² However, it was clear from the delegation’s discussions with various people during the visit that foreign children or children of foreign parents, especially Portuguese pupils, still face major challenges in their schooling. The issues raised in ECRI’s previous report continue to be of concern, in particular that these children, mainly from disadvantaged social backgrounds, are underrepresented in general secondary education – which is considered to be more rewarding – and overrepresented in vocational/technical education.¹⁴³ Young foreigners aged 18-24 are twice as likely to drop out of school and vocational training early.¹⁴⁴

¹³⁶ OECD (2021a): pp. 8, 22. [Communal Integration Plan - Syvicol](#); [Municipal advisory committee on integration \(CCCI\)](#).

¹³⁷ [Law of 8 March 2017 on Luxembourg nationality - Legilux \(public.lu\)](#). The new law came into force on 1 April 2017.

¹³⁸ See also [Luxembourg | MIPEX 2020](#).

¹³⁹ [Law of 22 July 2022 amending: 1° the amended electoral law of 18 February 2003 - Legilux \(public.lu\)](#).

¹⁴⁰ [Law of 16 June 2021 amending the amended law of 29 August 2008 - Legilux \(public.lu\)](#), art. 9.

¹⁴¹ CCDH (2021): pp. 6-8, <https://ccdh.public.lu/>; CCDH (2018), <https://ccdh.public.lu/>; [MGDL - Publications \(ombudsman.lu\)](#).

¹⁴² [Law of 6 February 2009](#), Articles 2, 7; [Law of 6 February 2009](#), Article 5.

¹⁴³ ECRI (2017): 71; OECD (2021a): 31-32; ASTI ([2020](#)).

¹⁴⁴ From 2017 to 2021, an average of 11.46% of young foreigners left education and training prematurely, while during the same period the percentage for young Luxembourg nationals was only 5.66%: Eurostat (2022), [Early leavers from education and training, by citizenship](#). Young people with an immigrant background also come from disadvantaged backgrounds. [For example, 71% of people of African descent in Luxembourg reported having a household income below the at-risk-of-poverty threshold \(compared to 17% of the general population\): Being Black in the EU | EU FRA](#).

82. ECRI notes that, since the three official languages are taught in stages through the school system,¹⁴⁵ a lack of proficiency in one of these languages may result in an otherwise promising pupil with a foreign background being moved to a lower year group or to vocational education. Moreover, almost half (48%) of newcomer pupils are placed in special classes and many struggle to get back into regular classes with their peers.¹⁴⁶
83. ECRI considers that learning official languages from an early age is a key factor in facilitating the integration of foreign children or children of foreign parents. In this connection, it considers the multilingual education programme introduced in nursery schools in 2017 to be a **promising practice**. Under this programme for children from 1 to 4 years of age, the first 20 hours per week are free of charge in nursery schools that offer language learning opportunities, including Luxembourgish and French.¹⁴⁷ ECRI has been informed that nursery school staff will receive the necessary training.
84. ECRI welcomes the fact that, at the beginning of the 2022-2023 school year, the authorities launched a pilot project in primary schools in four municipalities to enable pupils to learn to read and write in French instead of in German. The ultimate aim of the pilot project is to ensure that a parallel French literacy pathway is introduced throughout the country.¹⁴⁸ ECRI encourages the authorities to widen this project to meet the needs of all target groups.
85. ECRI considers the introduction of “intercultural mediators” in schools to be a **good practice**. The key role of these trained mediators is to assist pupils with an immigrant background and their parents in their dealings with the school, while maintaining the principle of neutrality. In 2021, there were 84 intercultural mediators. In the 2020-2021 school year, 8 028 requests for intercultural mediation were received.¹⁴⁹
86. Lastly, ECRI notes with interest that, at the time of its visit, a draft law establishing the Department for School Integration and Reception was being drawn up. The aim is to improve support for all newly arrived pupils and ensure that it is systematically provided. According to the authorities, establishing this new department will help to reduce the impact of pupils’ sociocultural background on their academic results, in particular by offering the most appropriate learning pathways based on their individual profiles and by setting up a two-year follow-up programme with a guidance counsellor. However, they also said that this broad reform would not include any new initiatives to provide extra tuition to help to bridge the gap between foreign children or children of foreign parents and other pupils in terms of academic achievement.¹⁵⁰
87. ECRI recommends that the authorities further develop and expand the forms of support for foreign children or children of foreign parents, including language support, to enable them to successfully complete their compulsory education.

¹⁴⁵ Luxembourgish is the language spoken in the preschool system, German is the language used to teach children to read and write in primary school and French, introduced in primary school, becomes the language of instruction in secondary school. For details on the use of these three languages in education, see: [Languages in Luxembourg schools - MENJE - \(public.lu\)](#).

¹⁴⁶ Immigrants who cannot access a regular class are integrated into special classes (reception classes - ACCU from 12 to 15 years old, ACCU alpha for illiterates, Integration classes for young adults - CLIJA from 16 to 17 years old, CLIJA+ from 18 to 24 years old), where they benefit from language courses in addition to academic training. OECD (2021a): 31.

¹⁴⁷ See: [Multilingual education for children aged 1 to 4 – MENJE – \(public.lu\)](#).

¹⁴⁸ [Pilot project for literacy learning in French at Luxembourg primary schools - \(public.lu\)](#); Paperjam.lu (2022, 12 April); L’essentiel.lu (2022, 14 April).

¹⁴⁹ MENJE (2022c): 68.

¹⁵⁰ MENJE (2022c): 67; OECD (2021a): 33.

Employment

88. Asylum seekers (AIPs) may apply for access to the labour market six months after submitting their asylum application. However, the number of temporary work permits granted to AIPs is quite low, with around 10 initial permits issued and about the same number renewed each year.¹⁵¹ Entering the labour market also remains a major challenge for refugees. For example, only 35% of Eritreans and Syrians and 28% of Afghans were in employment in 2019.¹⁵² During the visit, the authorities emphasised that for both AIPs and refugees, a lack of knowledge of the official languages is the main barrier to finding work.
89. ECRI notes with interest that in 2021, the authorities launched the country's first *Université Populaire*, an adult education network bringing together the National Language Institute, the Department of Adult Education and the National Centre for Continuous Vocational Training. However, ECRI regrets that the two integration programmes (CAI and PIA) on offer to all foreign nationals do not include active labour market measures. Some pilot projects combining language training and job skills for migrants in very vulnerable situations are run by associations, sometimes in partnership with the National Employment Agency (ADEM). Some of these projects have been awarded government funding under the National Action Plan on Integration. However, these initiatives have not yet reached many beneficiaries.¹⁵³ ECRI encourages the authorities to step up their efforts to provide immigrants with effective tools for learning the official languages and to link these to labour market activation programmes.
90. ECRI notes that companies have been invited to sign the "Diversity Charter Lëtzebuerg" as a practical way of promoting diversity. ECRI sees this as a **promising practice**. Recent surveys show that people with an immigrant background, especially those of African descent and Portuguese nationals, face discrimination in employment.¹⁵⁴ ECRI encourages the authorities to improve complaints procedures for discrimination in employment, including through alternative dispute resolution mechanisms.¹⁵⁵ In this respect, reference is made to Chapter I.A. of this report.

Housing

91. As regards the ONA-managed accommodation facilities in which applicants for international protection (AIPs) are received and housed, ECRI notes the high occupancy rates and sometimes unsatisfactory living conditions, including for unaccompanied children, despite the objectives set out in the coalition agreement.¹⁵⁶ In the course of its visit, the ECRI delegation went to the Saint-Antoine reception centre. It was able to assess the scale of the authorities' investment in this kind of facility. It should also be noted, however, that the lack of autonomy granted to AIPs with regard to their reception and housing may hinder their integration into society.¹⁵⁷
92. Moreover, the housing crisis in Luxembourg particularly affects beneficiaries of international protection (BIPs), who have difficulties finding alternative

¹⁵¹ Ministry of Foreign and European Affairs (2022): 21.

¹⁵² OECD (2021a): 16; 5.

¹⁵³ For example, "Learning languages by working at the NAXI-Atelier", a project run by the association Women in Distress and "Peanut", a project run by the association Lëtz Rise Up.

¹⁵⁴ In 2022, 55% of Black people and 53% of Portuguese nationals (44.5% of foreigners in general) consider that manifestations of discrimination are widespread when looking for a job: MIFA et al. (2022): 48. [In 2018, 47% of people of African descent felt they had been discriminated against when looking for work: Being Black in the EU | EU FRA.](#)

¹⁵⁵ See in this respect ECRI's GPR No. 4, in particular §§ 3) a, d, f; 6); [Discrimination - Chamber of Employees - CSL.](#)

¹⁵⁶ CCDH (2018); Government of the Grand Duchy of Luxembourg (2018): 233-235, available at <https://gouvernement.lu/>.

¹⁵⁷ The authorities have highlighted the existence of several projects aimed at improving reception and social and educational follow-up for children and adult AIPs, including projects aimed at empowering AIPs ("Cash For Food").

accommodation (reception facilities are in theory exclusively for AIPs). By the end of March 2022, 1 499 BIPs (i.e. 40.4%) were still living in reception facilities because they had no access to private housing. ECRI accordingly notes with interest the adoption in 2022 of the National Affordable Housing Strategy and the so-called Housing Pact and trusts that these initiatives will have a positive impact on beneficiaries of international protection and other foreign nationals seeking accommodation.

93. Lastly, ECRI is concerned that according to recent surveys, there is widespread discrimination against foreigners with an immigrant background and holding a foreign nationality when seeking rental accommodation, in particular towards persons of African descent and Portuguese nationals.¹⁵⁸
94. ECRI recommends that the authorities take decisive action to i) prevent and combat discrimination against migrants with regard to access to housing, ii) continue efforts to ensure that asylum seekers live in suitable conditions and iii) grant greater autonomy to beneficiaries of international protection as regards accommodation by stepping up initiatives to provide support to those in particularly vulnerable positions during the housing crisis.

B. The specific situation of people fleeing Ukraine as a result of the Russian Federation's aggression

95. According to the authorities, by August 2022, some six months after the Russian Federation's aggression against Ukraine, 6 561 people from Ukraine had arrived in Luxembourg, of whom 4 755 had been granted temporary protection. As of May 2022, the ONA had 18 reception facilities specifically for people from Ukraine¹⁵⁹ and had made 2 369 beds available. In addition, Caritas Luxembourg and the Luxembourg Red Cross, with the support of the MIFA and in collaboration with the ONA, set up a system to match those affected by the war in Ukraine with Luxembourg residents willing to offer them accommodation. By May 2022, at least 2 400 people from Ukraine had been lodged in private homes. However, as solidarity slowly ebbed away, more and more people who had been granted temporary protection were transferred to ONA accommodation facilities, which continued to convert more buildings into temporary protection accommodation facilities (SHPTs).¹⁶⁰ The ECRI delegation visited one such facility, the "T Building", where it witnessed the great lengths gone to by ONA, assisted by Caritas Luxembourg and the Luxembourg Red Cross,¹⁶¹ to provide adequate accommodation for those fleeing the war in Ukraine.¹⁶²
96. Temporary protection, which was initially granted for one year (until March 2023), may now be renewed for up to three years. In practice, it was granted automatically to Ukrainian nationals¹⁶³ and third-country nationals (non-Ukrainians from outside the EU) who had already received refugee status in Ukraine. However, third-country nationals who had a residence permit in Ukraine, but who had not been granted international protection in that country, were systematically denied temporary protection, despite an appeal by the Office of the United Nations High Commissioner for Refugees to grant such persons an interview. According to the authorities, these people may still apply for

¹⁵⁸ In 2022, 56% of Portuguese citizens (and 50% of foreigners) believe that manifestations of discrimination are widespread when looking for housing: MIFA et al. (2022): 49. In 2018, 28% of people of African descent experienced discrimination on the basis of their ethnic origin against when looking for a place to rent: [Being Black in the EU | EU FRA](#).

¹⁵⁹ Including 10 reception facilities for beneficiaries of temporary protection, seven emergency shelters and one emergency first reception centre.

¹⁶⁰ [Luxembourg doubles reception capacity in one year, article published on infomigrants.net on 5 January 2023](#).

¹⁶¹ It should be noted in this respect that these organisations are in charge of the provision of social services within the T Building.

¹⁶² There are, however, some constraints. For example, if T Building residents are absent more than five times a month, they run the risk of being evicted.

¹⁶³ See, in particular, [Guichet.lu](#).

international protection. However, the status of beneficiary of temporary protection and that of asylum seeker entail different rights and obligations.

97. The “one-stop shop” set up in April 2022 has significantly accelerated the procedure for obtaining temporary protection.¹⁶⁴ This one-stop shop is, in ECRI’s view, a **good practice** that could be extended to other categories of foreigners.
98. Beneficiaries of temporary protection (BTPs) have automatic access to the labour market and may register as jobseekers with the National Employment Agency (ADEM). However, civil society representatives told ECRI that there are still some obstacles in practice, particularly as regards language proficiency. As a result, only 23.3% of BTPs were in employment in December 2022.¹⁶⁵ ECRI welcomes the fact that the authorities provide free language courses to help BTPs enter the labour market.
99. Following legislation adopted in March 2022, Luxembourg recruited new school staff, including Ukrainian teachers, to facilitate the integration of children from Ukraine in schools. As of April 2022, as many as 600 Ukrainian pupils were attending school in Luxembourg. By September 2022, more than 500 pupils were awaiting the completion of administrative procedures so that they could start school. ECRI is pleased to note that new classes are being opened in six international schools, and in elementary and secondary schools. ECRI welcomes these measures, which it regards as a **good practice**.
100. ECRI acknowledges the considerable efforts made by the Luxembourg authorities to meet the needs of people fleeing the war in Ukraine. However, some differences in the rights afforded to BTPs and AIPs do not stem from their different legal status, particularly in terms of the administrative management of support for the two groups. According to several civil society representatives, these differences may have given the impression that the authorities wished to limit the number of applications for international protection. In this regard, ECRI refers to its 2022 statement on the consequences of the Russian Federation’s aggression against Ukraine, in which it called for the solidarity shown by Council of Europe member States towards Ukrainian nationals in need to remain the norm in the management of current and future humanitarian crises for all people fleeing war and other emergencies, and that all persons fleeing war and other emergencies, regardless of their national or ethnic origin, citizenship, colour, religion, language, sexual orientation or gender identity, are promptly offered adequate protection.

¹⁶⁴ The one-stop-shop includes staff from the Immigration Directorate, ONA, Ministry of Education, Ministry of Health, the Criminal Investigation Department and the Post Office.

¹⁶⁵ The sectors in which the highest proportion of Ukrainians have found work are: health / social work (22%), accommodation / catering (17%) and specialised, scientific and technical activities (9%), ([The uneven integration of Ukrainian refugees in the labour market, article published on paperjam.lu on 24 February 2023](#)).

IV. TOPICS SPECIFIC TO LUXEMBOURG

The principles of equality before the law and non-discrimination in the Luxembourg Constitution

101. ECRI notes that Article 15(2) of the revised Luxembourg Constitution now provides that "No one may be discriminated against on the grounds of his or her personal situation or circumstances".¹⁶⁶ ECRI welcomes the introduction of the principle of non-discrimination into the Luxembourg Constitution, while regretting that the constituent power has not followed up on certain proposals made by the CCDH, in particular as regards the inclusion of a non-exhaustive list of grounds for discrimination.¹⁶⁷
102. By contrast, ECRI cannot but note that the constitutional principle of equality before the law still applies only to Luxembourg nationals. Article 15(1) (former Article 10bis.1) states in particular that only "Luxembourgers are equal before the law", whereas Article 16 (former Article 111) provides that foreign nationals only enjoy the protection given to persons and property and do so subject to the exceptions established by the law. Although Luxembourg courts recognise that foreigners are considered to be equivalent to nationals in the eyes of the law, and that they therefore cannot be denied any rights unless the legislature has expressly decided otherwise, ECRI had considered it important that the right to equal treatment of all individuals be enshrined in the Constitution in order to prevent any more restrictive interpretation of the said provisions in the future.¹⁶⁸
103. The constitutional reform completed at the end of 2022 had been seen, both nationally and internationally, as an opportunity to introduce an amendment along these lines.¹⁶⁹ ECRI encourages the authorities to re-examine all possibilities to review the constitutional provisions pertaining to equality before the law in the future.

¹⁶⁶ [Consolidated version](#), applicable on 01/07/2023.

¹⁶⁷ In its [Opinion 02/2022 on the proposal to revise Chapter II of the Constitution](#), the CCDH had urged the constituent power to include a list of grounds for discrimination, which should be non-exhaustive (p. 18). The latter instead opted to mention "the personal situation" or "personal circumstances" as grounds for discrimination. The explanatory memorandum gives further details, stating that these terms cover "race or ethnic origin, sex, sexual orientation, religion or beliefs, disability and age" ([No. 7755, Proposal for the revision of Chapter II of the Constitution, Explanatory Memorandum](#), p. 3), thus referring to an exhaustive list of protected characteristics.

¹⁶⁸ See ECRI's fifth report on Luxembourg, §§ 7, 17.

¹⁶⁹ [CCDH, Opinion 02/2022, pp. 16-17; CERD/C/LUX/CO/18-20, § 8; "Ensuring equality for all is a safeguard for the future" paperjam.lu, 23 June 2022.](#)

INTERIM FOLLOW-UP RECOMMENDATIONS

The two specific recommendations for which ECRI requests priority implementation from the authorities of Luxembourg are the following:

- (§7) ECRI recommends that the authorities take the requisite measures to strengthen the legal framework, the mandate and the powers of the Centre for Equal Treatment in the light of ECRI's General Policy Recommendation No. 2 (revised) on equality bodies to combat racism and intolerance at national level, particularly with regard to the following matters: (i) giving it a clear legal status; (ii) giving it jurisdiction to deal with all relevant grounds concerning equal treatment, including "nationality"; (iii) giving it the necessary powers to conduct proper investigations; (iv) setting up a system to follow up on its recommendations; (v) giving it the right to have complaints referred to it; (vi) giving it the right to take part in court proceedings and to intervene in judicial proceedings concerning discrimination; and (vii) ensuring that it has suitable resources to perform any new duty.
- (§35) ECRI recommends that the authorities take the necessary measures to properly protect the right of intersex children to physical integrity and bodily autonomy through i) the introduction of appropriate legislative changes to prohibit the so-called "normalising" genital surgery and other medically unnecessary treatments until the child is able to participate in the decision on the basis of the right to self-determination and the principle of free and informed consent; ii) the development of intersex equality rights guidelines and training for professionals who may be in contact with intersex children, such as teachers and health professionals; iii) the establishment of easily accessible counselling and support services for intersex people and their family.

A process of interim follow-up for these two recommendations will be conducted by ECRI no later than two years following the publication of this report

LIST OF RECOMMENDATIONS

The position of the recommendations in the text of the report is shown in parentheses.

1. (§7) ECRI recommends that the authorities, as a matter of priority, take the requisite measures to strengthen the legal framework, the mandate and the powers of the Centre for Equal Treatment in the light of ECRI's General Policy Recommendation No. 2 (revised) on equality bodies to combat racism and intolerance at national level, particularly with regard to the following matters: (i) giving it a clear legal status; (ii) giving it jurisdiction to deal with all relevant grounds concerning equal treatment, including "citizenship"; (iii) giving it the necessary powers to conduct proper investigations; (iv) setting up a system to follow up on its recommendations; (v) giving it the right to have complaints referred to it; (vi) giving it the right to take part in court proceedings and to intervene in judicial proceedings concerning discrimination; and (vii) ensuring that it has suitable resources to perform any new duty.
2. (§15) ECRI recommends that the authorities devise a digitalised tool for the SePAS with a view, in the medium term, to setting up a school bullying monitoring centre, dealing with incidents, including those involving racism and LGBTI-phobia, and that they formally establish, through legislative measures if necessary, child protection officers in all schools to follow up properly on cases of bullying and violence. These officers should be trained for the purpose, easy for pupils to approach and authorised to work independently within schools and, where appropriate, in extra-curricular activities.
3. (§30) ECRI recommends that the authorities take the necessary measures without delay to adjust the legislation with a view to granting same-sex couples automatic recognition of joint parenthood in connection with assisted reproduction.
4. (§35) ECRI recommends, as a matter of priority, that the authorities take the necessary measures to properly protect the right of intersex children to physical integrity and bodily autonomy through i) the introduction of appropriate legislative changes to prohibit the so-called "normalising" genital surgery and other medically unnecessary treatments until the child is able to participate in the decision on the basis of the right to self-determination and the principle of free and informed consent; ii) the development of intersex equality rights guidelines and training for professionals who may be in contact with intersex children, such as teachers and health professionals; iii) the establishment of easily accessible counselling and support services for intersex people and their family.
5. (§45) ECRI recommends that the authorities take decisive measures to set up a comprehensive system to monitor hate speech. These measures should involve the police and prosecution services, courts, equality bodies and civil society organisations providing support for the groups falling within ECRI's mandate. In doing so, the authorities should take due account of paragraph 3 c) and d) of ECRI's General Policy Recommendation No. 15 on combating hate speech and paragraph 58 of Recommendation CM/Rec(2022)16 of the Committee of Ministers to the member States on combating hate speech.
6. (§54) ECRI recommends that (i) the revision of the regulatory framework for the media should continue so as to prevent and eliminate hate speech proffered there, with due regard for the independence of the media and extending beyond the online media, and ensure that these regulations are fully implemented in practice; (ii) the Press Council be granted the right to open proceedings on its own initiative and be able to take decisions on any of the printed media; (iii) more encouragement be given to organising instruction for media professionals and journalists as part of their initial and in-service training on means of recognising and reporting hate speech and responding to it, and on means of preventing its use and dissemination, in the light of Recommendation CM/Rec(2022)16 of the Committee of Ministers of the Council of Europe on combating hate speech.

7. (§58) ECRI recommends that the relevant authorities draw up and make available to police officers a questionnaire designed to help them to identify discriminatory grounds when interviewing victims or witnesses of hate-speech-related incidents with a view to improving the quality of reports establishing the facts.
8. (§71) ECRI recommends that the authorities improve the provision of language courses for migrants by (i) introducing an advisory and guidance service, (ii) adapting the course content to facilitate access to employment, (iii) extending the duration of the courses and raising the target language levels, while taking into account international guidelines and (iv) setting up a monitoring and evaluation system with a view to making any necessary adjustments and changes.
9. (§74) ECRI recommends that the authorities develop an appropriate system of integration indicators and improve the collection of data on equality in various areas of public policy, with the sole purpose of assessing progress and challenges in the integration of all migrants living in the country, while ensuring that the principles of confidentiality, voluntary self-identification and informed consent are maintained. It should also take into account any multiple or intersectional discrimination that may exist.
10. (§87) ECRI recommends that the authorities further develop and expand the forms of support for foreign children or children of foreign parents, including language support, to enable them to successfully complete their compulsory education.
11. (§94) ECRI recommends that the authorities take decisive action to i) prevent and combat discrimination against migrants with regard to access to housing, ii) continue efforts to ensure that asylum seekers live in suitable conditions and iii) grant greater autonomy to beneficiaries of international protection as regards accommodation by stepping up initiatives to provide support to those in particularly vulnerable positions during the housing crisis.

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APPENDIX: GOVERNMENT'S VIEWPOINT

The following appendix (in French only) does not form part of ECRI's analysis and proposals concerning the situation in Luxembourg.

ECRI, in accordance with its country-by-country procedure, engaged into confidential dialogue with the authorities of Luxembourg on a first draft of the report. A number of the authorities' comments were taken on board and integrated into the report's final version (which, in line with ECRI's standard practice and unless otherwise indicated, could only take into account developments up until 30 March 2023, date of the examination of the first draft).

The authorities also requested that the following viewpoint be reproduced as an appendix to the report.

Point de vue du Gouvernement du Luxembourg sur le sixième rapport de l'ECRI sur le Luxembourg

Le Gouvernement luxembourgeois se félicite du dialogue constructif et continu qu'il mène avec l'ECRI et saisit l'opportunité pour formuler les quelques observations suivantes concernant son sixième rapport.

Ad 14^{ème} paragraphe :

Le PAN Intégration est un document d'orientation servant de base à toutes les décisions stratégiques prises par le Comité interministériel à l'intégration. Par ailleurs, il permet d'informer tous les acteurs du système luxembourgeois d'intégration des financements attribués par le comité de sélection des projets, suite à la publication d'appels à projets thématiques reflétant les priorités et les orientations définies par le PAN Intégration. Etant donné que ses objectifs sont réalisés via des projets et financements spécifiques, le suivi et l'évaluation du PAN Intégration portent sur les projets sélectionnés, lesquels proposent de mettre en œuvre au moins l'une des priorités nationales. Dans ce cadre, le comité de suivi mobilise des indicateurs à la fois quantitatifs et qualitatifs, notamment afin de déterminer si les projets ont eu l'impact visé.

L'examen à mi-parcours n'a pu être réalisé, principalement en raison de la séparation institutionnelle des domaines de l'accueil et de l'intégration, mais aussi du fait de la pandémie de la COVID-19, laquelle a engendré le report de certains projets sélectionnés et/ou l'adaptation des objectifs spécifiques à une situation sociale faite de contraintes sanitaires. Pour autant, le Gouvernement dispose d'informations relatives aux domaines couverts par les projets d'intégration sélectionnés et de données d'évaluation propres à ces derniers. Ces informations sont utilisées stratégiquement par le Comité interministériel à l'intégration, en vue d'orienter ses décisions quant aux actions futures et aux priorités thématiques. Le Gouvernement intégrera ces données dans le design du futur Plan d'Action National du vivre- ensemble interculturel.

Afin de pouvoir combler certaines lacunes dans la collecte de données en matière d'égalité, le Gouvernement a mandaté le Luxembourg Institute of Socio-Economic Research (LISER) et le Centre d'Etude et de Formation Interculturelles et Sociales (CEFIS) pour réaliser une vaste enquête nationale sur le racisme et les discriminations ethno-raciales au Luxembourg. Publiée en 2022, cette étude s'intéresse aux principaux domaines de la vie sociale des résidents et personnes racisées : emploi, logement, santé, école, éducation, etc. Elle fournit des données de première main sur la réalité du vivre-ensemble et de l'intégration – notamment structurelle et civique – des personnes racisées et nous livre, ce faisant, un matériau de réflexion et d'action riche et profond, en vue de pouvoir développer des politiques ciblées, complémentaires de l'approche mainstream. Ladite étude est consultable [ici](#). Le CEFIS enrichit actuellement ces données par un second volet d'entretiens qualitatifs portant sur les discours, vécus et ressentis des victimes directes et groupes exposés aux discriminations ethno-raciales. Réalisé dans le cadre de la convention le liant au ministère de la Famille, de l'Intégration et à la Grande Région, ce travail complémentaire vise notamment à mieux documenter la dimension intersectionnelle des expériences discriminatoires.

Ad 16^{ème}, 18^{ème} et 25^{ème} paragraphes :

Le Gouvernement est en train d'élaborer un Plan d'Action National contre le racisme et la discrimination raciale. Il s'est engagé à le finaliser d'ici la fin de l'année 2023. Ce Plan est élaboré en collaboration avec les acteurs publics et les groupes racisés, y compris les organisations de la société civile représentant ces groupes dans leur hétérogénéité sociale et culturelle.

Avec le soutien du ministère de la Famille, de l'Intégration et à la Grande Région, le ministère de l'Education nationale, de l'Enfance et de la Jeunesse mène actuellement des consultations avec un large panel d'acteurs clés du secteur de l'éducation, afin de co-construire les actions concrètes à inclure dans la section « éducation » du prochain Plan. Le ministère du Travail est en train de préparer des consultations pour la section

« emploi » du futur Plan et des actions sont en cours de discussion pour le volet « logement ». Ces trois domaines d'intégration ont été identifiés comme prioritaires dans l'enquête nationale sur le racisme et les discriminations ethno-raciales.

En la matière, le Gouvernement ne part néanmoins pas de zéro. En effet, il a déjà mis en place des mesures dans les domaines de la recherche, de la formation, de la sensibilisation et de la législation et des politiques mainstream. Ces mesures visent notamment à :

- factueliser et objectiver le racisme et la discrimination raciale ;
- développer des capacités de gestion des interactions dans un environnement multi- ethnique (administrations communales, écoles, police, entreprises) ;
- renforcer la prise de conscience des biais ethno-raciaux, stéréotypes, préjugés et imaginaires négatifs à l'encontre des groupes racisés ;
- améliorer la coordination des politiques dédiées et la prévention de ces phénomènes ;
- renforcer la répression, par exemple par l'introduction d'une circonstance aggravante dans le code pénal ;
- améliorer le cadre juridique et les politiques générales, par exemple en matière d'accès à la nationalité luxembourgeoise, de protection juridique des victimes de discrimination et de participation politique aux élections communales.

Ces mesures et projets concrets s'appuient, entre autres, sur les recommandations du Comité des Nations unies pour l'élimination de la discrimination raciale et sur celles de l'étude

« Racisme et discriminations ethno-raciales au Luxembourg ». La lutte contre le racisme et toute forme de discrimination fait également partie intégrante du projet de loi dans le domaine du vivre-ensemble interculturel, qui viendra remplacer la loi actuelle sur l'intégration.

Ad 24^{ème} paragraphe :

Avec le projet de loi dans le domaine du vivre-ensemble interculturel, les programmes d'intégration sont actuellement en cours de modernisation. Le Gouvernement a saisi cette

occasion pour évaluer, en collaboration avec le LISER, comment la participation au Contrat d'Accueil et d'Intégration (CAI) a pu avoir un impact sur le parcours d'intégration des participants.

Une première étape de cette évaluation a consisté à explorer les données recueillies entre 2017 et 2022, pour dresser les profils des participants. En particulier, il s'agissait de mieux comprendre quels groupes de participants potentiels ont signé le contrat, honoré ses prestations et quelles populations éligibles ont été plus difficiles à atteindre.

Afin de mesurer la sélection sociale dans la participation, cette évaluation a comparé les participants sur la base de caractéristiques observables (âge, sexe, éducation, groupe national, localisation géographique, composition familiale...) à la population générale ciblée, en vue d'identifier les caractéristiques associées à une participation élevée ou faible au programme volontaire, de même que les sous-groupes de population éligible qui ne sont pas (ou faiblement) représentés. De la même manière, il s'agissait de comparer les candidats signataires aux participants ayant honoré toutes les prestations du CAI, notamment afin d'analyser le décrochage en cours de programme.

En parallèle, cette étude a exploré les possibilités de mettre en œuvre une évaluation de l'effet causal de la participation au CAI sur différents résultats mesurables par des données administratives (emploi, logement, mobilité géographique, sociale...), par une comparaison avec des indicateurs d'enquêtes existantes (conditions de vie, force de

travail, valeurs...) ou par une nouvelle enquête originale (bien-être, acculturation, sentiments d'intégration, d'appartenance, relations interculturelles...).

Le Gouvernement intégrera ces données d'évaluation dans le design des futurs programmes d'intégration, plus particulièrement en matière de communication/sensibilisation, de régionalisation de l'offre d'activités et de formations, de structure et de contenu des programmes et de suivi et d'évaluation de leur effet causal sur le parcours d'intégration des populations éligibles.

Ad 57^{ème} et 58^{ème} paragraphes :

Les procès-verbaux en matière de discours de haine sont établis par la Section Antiterrorisme du Service de Police Judiciaire de la Police grand-ducale, soit par des enquêteurs hautement spécialisés, et la qualité desdits rapports est exemplaire.

Si le nombre des condamnations en matière de discours de haine reste relativement faible par rapport au nombre des cas dénoncés, c'est que, tout d'abord, tous les signalements ne constituent pas des infractions pénales à la base. Les internautes sont libres de signaler sur la plateforme BeeSecure le contenu virtuel qui leur paraît problématique, mais ne sont pas forcément juristes. Un premier tri est opéré par la plateforme qui préfère, en cas de doute, continuer le signalement que de le retenir.

Une équipe composée d'un enquêteur et d'un Parquetier analyse les signalements par la suite, et bon nombre de commentaires dénoncés ne remplissent pas les conditions légales pour constituer une infraction pénale.

Les auteurs des commentaires retenus sont ensuite entendus par la Police judiciaire et sont admis à exprimer leur repentir et à supprimer le commentaire dénoncé. Face à une telle attitude, le Procureur dispose d'un pouvoir d'appréciation de l'opportunité des poursuites. Les acteurs sur le terrain, à savoir BeeSecure, la Police, le Parquet et l'initiative respect.lu de l'asbl SOS Racisme ont en effet mis au point un suivi non répressif incluant un stage alternatif

« *Dialog statt Hass* » permettant aux auteurs de commentaires susceptibles de constituer une infraction pénale d'échapper aux poursuites judiciaires. La participation à ce stage a été vécue de façon très positive par les personnes qui ont choisi de s'y soumettre et a surtout permis d'éviter le risque de récidive dans le chef de ces personnes.

Suite à l'introduction récente de l'article 80 dans le Code pénal, une sensibilisation en la matière a été faite (en mai 2023) afin de mettre tous les commissariats de police à niveau. Il est important de noter que jusqu'à l'introduction de la circonstance aggravante exprimée audit article 80 par la loi du 23 mars 2023, le motif haineux des infractions n'avait pas à être recherché par les commissariats de police.

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The European Commission against Racism and Intolerance (ECRI) is a unique human rights monitoring body which specialises in questions relating to the fight against racism, discrimination (on grounds of “race”, ethnic/national origin, colour, citizenship, religion, language, sexual orientation and gender identity), xenophobia, antisemitism and intolerance in Europe; it prepares reports and issues recommendations to member States.