LUXEMBOURG

1. Discriminatory Family Code

Luxembourg’s Civil Code sets the minimum age for marriage at 16 years for women and 18 years for men, but permits courts to allow minors to enter into marriage at a younger age if the union is justified by serious reasons. Parental consent is required for all unions involving minors, although the State prosecutor may request the court to allow the marriage where the parents’ refusal is deemed to be abusive. No information on customary practices could be found.

In respect to early marriage, the latest figures indicate a mean age at first marriage of 30.3 years for females in 2011 (32.9 years for males). According to STATEC (Luxembourg’s national statistical office) no minors under the age of 17 years were married in 2011, and only 2.9% of married couples in 2011 belonged to the 17-19 age group. Moreover, the United Nations (UN) reports that respectively 1.4% and 0.3% of females and males aged 15-19 were married, divorced or widowed in 2001.

As regards fertility rates, latest figures indicate an overall fertility rate of 1.57 births per 1 000 women in 2012 and an adolescent fertility rate of 9 births per 1 000 girls aged 15-19 in 2013. The Civil Code provides for joint parental authority during and after divorce. Accordingly, both parents have a right and duty of custody, supervision and education, with a view to protecting the child’s security, health and morality. Moreover, the Civil Code stipulates that both spouses must ensure the moral and material direction of their home, cater to their family’s needs, raise their children, and prepare their education.

---

1 Civil Code, s.144  
2 The age of majority is 18 years (Civil Code, s.488)  
3 Civil Code, s.145  
4 Civil Code, s.148  
5 Civil Code, s.160bis  
7 Service Central de la Statistique et des Etudes Economiques  
8 STATEC (2013), RP 2011, “24-Donnees complementaires-FR” (metadata)  
9 United Nations Department of Economic and Social Affairs (UNDESA) (2013), World Marriage Data 2012 (database)  
10 STATEC (2013), Luxembourg in figures 2013  
11 World Economic Forum (2013)  
12 Civil Code, ss.375 and 303 respectively  
13 Civil Code, s.372  
14 Civil Code, s.213
The Civil Code provides for equal inheritance rights for wives and daughters, as no gender distinctions are made regarding the rights of the spouse and children of the deceased.\textsuperscript{15} No reports of discriminatory practices could be found.

Women and men in Luxembourg have equal rights to initiate divorce,\textsuperscript{16} in which case child custody is determined by the court in the best interest of the child, and may be awarded to either spouse or to a third party.\textsuperscript{17} In the event of divorce by mutual consent, the parents can decide by written agreement to exercise joint custody.\textsuperscript{18} Child custody is most often awarded to the mother,\textsuperscript{19} and may be granted to her even if the divorce was pronounced against her, for reasons relating to the child’s age or gender, the father’s work-related travel, or the absence of misconduct by the mother.\textsuperscript{20} The overall divorce rate was last recorded at 2.1 per 1 000 people in 2010.\textsuperscript{21}

\textit{More}

According to a report published by STATEC in May 2012, women shoulder most domestic responsibilities. Indeed, the study found that women spend on average 19 hours per week on housework, and 24 hours a week once they have a child, compared to respectively 8 hours per week and 10 hours per week for men. The gender gap in domestic work is most striking among large families with four or more children, where mothers spend on average 25 hours more per week than fathers. The study also found that mothers in Luxembourg spend longer hours than fathers looking after their children (respectively 35 hours per week and 21 hours per week), and increasingly so as the family expands. Finally, the study noted that families with modest incomes spend longer hours on domestic work and care activities.\textsuperscript{22}

The Committee on the Elimination of Discrimination against Women (CEDAW) expressed concern over these gender imbalances in its most recent report (2008), calling on Luxembourg to “step up its efforts to assist women and men in striking a balance between family and employment responsibilities”, including through further awareness-raising and education initiatives, and by expanding childcare services. The Committee also noted that the “stereotypes related to traditional roles of men as breadwinners and women as mothers and caregivers persist and affect the educational and professional choices of women”.\textsuperscript{23}

\textsuperscript{15} Civil Code, ss.718 - 767-4
\textsuperscript{16} Ibid., ss.229-231
\textsuperscript{17} Ibid., s.302
\textsuperscript{18} Ibid., s.277(3)
\textsuperscript{19} European Commission (2006)
\textsuperscript{20} Civil Code, s.302(1)
\textsuperscript{21} European Commission (2014), Eurostat (database), “Divorces” (metadata)
\textsuperscript{22} STATEC (2012), Regard sur les tâches liées au ménage et aux enfants
\textsuperscript{23} Committee on the Elimination of Discrimination against Women (CEDAW) (2008), Concluding comments of the Committee on the Elimination of Discrimination against Women, Luxembourg, CEDAW/C/LUX/CO/5
2. Restricted Physical Integrity

Violence against women is an issue in Luxembourg, with national statistics indicating that women accounted for 64.3% of victims of violence in 2012.\(^\text{24}\) Despite this, Luxembourg has not yet adopted a specific strategy and action plan on violence against women, although the Convention on the Elimination of all forms of Discrimination against Women (CEDAW) Committee urged the country to do so in 2008.\(^\text{25}\) The National Action Plan on Equality between Women and Men for 2009-14 is currently set up by the government and will be based on the Coalition Program of December 2013 which contains a certain number of measures concerning the fight against domestic violence.

**Domestic violence** is currently regulated by several provisions in the Criminal Code and New Code of Civil Procedure which were amended and/or introduced by a specific law on domestic violence passed on 8 September 2003 and revised in July 2013.\(^\text{26}\) Domestic violence is not specifically defined but the 2003 law refers to various crimes (threatening to attack others,\(^\text{27}\) rape,\(^\text{28}\) homicide,\(^\text{29}\) battery/bodily harm,\(^\text{30}\) torture,\(^\text{31}\) etc.) which carry heavier penalties when committed against family members (including the current/ex-spouse/partner, ascendants, descendants, siblings). The bill also introduced eviction orders against perpetrators of domestic violence. Accordingly, police officers are empowered to expel such persons from their household for a period of ten days, and the victim can request the court to extend the eviction for a period of three months.\(^\text{32}\) The bill also created a committee of co-operation between professionals in the fight against violence, which is composed of State representatives and professionals working for support services to victims and perpetrators of domestic violence.

National statistics reveal an increase in the prevalence of domestic violence, with 357 victims registered in 2012 and 2013, compared to 302 in 2009,\(^\text{33}\) and 357 evictions registered in 2013, compared to 145 in 2003.\(^\text{34}\) According to a study conducted across the European Union in 2012, 22% of women in Luxembourg had experienced physical and/or sexual violence since the age of 15 and 3% in the past twelve months; while 49% of women reported having experienced psychological violence during one of their relationships.\(^\text{35}\) Moreover, women represent the majority of victims, with latest national statistics indicating that they accounted for 90,48% of

---

\(^{24}\) Comité de coopération entre les professionnels dans le domaine de la lutte contre la violence (2014). *Rapport au gouvernement pour l'année 2013*

\(^{25}\) CEDAW (2008)

\(^{26}\) Loi modifiée du 8 septembre 2003 sur la violence domestique portant modification 1) de la loi du 31 mai 1999 sur la police et l'inspection générale de la police; 2) du code pénal; 3) du code d'instruction criminelle; 4) du nouveau code de procédure civile

\(^{27}\) Criminal Code, ss.327,329, 330, 330-1

\(^{28}\) Criminal Code., ss.375-377

\(^{29}\) Criminal Code., ss.395-396

\(^{30}\) Criminal Code., ss.409

\(^{31}\) Criminal Code., s.438-1

\(^{32}\) New Code of Civil Procedure, s.1017-1

\(^{33}\) Government of Luxembourg (2013), *Statistiques 2013*

\(^{34}\) Comité de coopération entre les professionnels dans le domaine de la lutte contre la violence (2014)

\(^{35}\) European Agency for Fundamental Rights (2014)
victims (311 out of 357) in 2012.\textsuperscript{36} There is no available data on the percentage of women who agree that wife beating is justified under certain circumstances. 88.8\% of domestic cases in 2012 involved intimate partner violence,\textsuperscript{37} and as regards conviction rates, national reports indicate that 32 convictions were pronounced in 2012.\textsuperscript{38}

\textbf{Rape} is criminalised under s.375 of the Criminal Code. Accordingly, rape is defined as any act of sexual penetration committed against a non-consenting person, inter alia through the use of force or threat, trick or artifice, or by abusing a person’s inability to consent or resist freely. Case law has established that the “inability to consent or resist freely” relates to victims who had no faculty to understand the act, and to victims who did but whose judgement was clouded by violence or threats.\textsuperscript{39} Victims under the age of 14 years are irrefutably presumed to have been incapable of freely consenting to the act.\textsuperscript{40}

Rape is punished by a prison sentence of five to ten years, or 10-15 years in the event where it is committed against a minor under the age of 16 years.\textsuperscript{41} Marital/spousal rape and the rape of pregnant women are, inter alia, aggravated forms of rape with heavier penalties.\textsuperscript{42} The police recorded a 17.1\% increase in the number of rapes between 2012 and 2013, with 89 cases registered in 2013,\textsuperscript{43} but no information on conviction rates is available.

Services for women victims of violence include a multilingual helpline (however it is neither free of charge, nor available 24/7),\textsuperscript{44} nine women shelters with approximately 154 places available,\textsuperscript{45} and 13 women’s centres providing counseling, information and advice, court accompaniment, outreach and resettlement support.\textsuperscript{46}

\textbf{Sexual harassment} is prohibited in the workplace since May 2000 and defined as conduct of a sexual nature or based on sex which the person who displays it knows or should know that it affects the dignity of the person. The law also stipulates that one of the following three conditions must be met: the conduct is untimely, abusive and hurtful; the victim’s acceptance or refusal of the harassment is explicitly or implicitly used to form the basis of a professional decision against him/her; the conduct creates a climate of intimidation, hostility or humiliation for the victim.\textsuperscript{47} “Sexual nature” and “based on sex” are not specifically defined by law nor clarified through case law.\textsuperscript{48} The law obliges employers to prevent sexual harassment by

\textsuperscript{36} Comité de coopération entre les professionnels dans le domaine de la lutte contre la violence (2013)
\textsuperscript{37} Comité de coopération entre les professionnels dans le domaine de la lutte contre la violence (2013)
\textsuperscript{38} Comité de coopération entre les professionnels dans le domaine de la lutte contre la violence (2013)
\textsuperscript{39} Criminal Code, s.375(1)
\textsuperscript{40} Criminal Code, s.375(1)
\textsuperscript{41} Criminal Code, s.375
\textsuperscript{42} Criminal Code, s.377(5)
\textsuperscript{43} Government of Luxembourg (2013)
\textsuperscript{44} Women Against Violence Europe (WAVE) (2012)
\textsuperscript{45} Women Against Violence Europe (WAVE) (2012)
\textsuperscript{46} Women Against Violence Europe (WAVE) (2012)
\textsuperscript{47} Loi du 26 mai 2000 concernant la protection contre le harcèlement sexuel à l’occasion des relations de travail et portant modification de différentes autres lois, s.2
\textsuperscript{48} European Commission (2011)
informing employees on the law and taking measures to stop sexual harassment, and employers can be summoned to do so by the court. “Obsessive harassment” (defined as repeated harassment) constitutes a crime and is punished by 15 days to two years imprisonment. Sexual harassment is reportedly very rare in Luxembourg.

Female genital mutilation is not reported to be practiced in Luxembourg.

More

Legislation on abortion is at a turning point after Luxembourg’s Cabinet adopted a bill decriminalising abortion on 4 April 2014. The bill will be submitted to Parliament once the Council of State gives its opinion on the text. Should the new text be passed, voluntary abortion will no longer constitute a crime, and women will no longer be obliged by law to provide written consent to abort, nor be obliged to consult a psycho-social institution after obtaining medical approval for the abortion. Abortion is currently legal in the event of threat to maternal life, rape, health concerns, foetal impairments, and for economic or social reasons.

3. Son Bias

Recent data does not indicate a son bias. The male-to-female sex ratio at birth in 2013 is 1.07 and for the working age population (15-64 years old) is 1.01.

There is evidence to suggest that is a country of no concern in relation to missing women.

More

Moreover, pre-primary and primary gross enrolment ratios as well as net enrolment rates in secondary school were slightly higher for females between 2008 and 2012.

4. Restricted Resources and Assets

Luxembourg’s Civil Code contains gender neutral provisions on the acquisition of land, property, assets and real estate, and stipulates that marriage does not alter the spouses’ legal capacity.

---

49 Loi du 26 mai 2000 (op. cit.), s.4
50 Ibid., s.11
51 Criminal Code, s.442-2
52 European Commission (2011)
53 UNICEF (2013)
55 It is currently prohibited under s.351 of the Criminal Code
56 Criminal Code, s.353
57 Criminal Code.
59 UNICEF (2013)
60 Code Civil, ss.711-717
61 Ibid., s.544-577
62 Ibid., s.216
As regards **access to financial services**, the Civil Code stipulates that each spouse can freely open an account in his/her own name, without the other spouse’s consent,\(^{63}\) while 2011 data on financial inclusion provided by the World Bank reveals no striking gender gaps: 95.3% of women and 93.7% of men had an account in a formal institution; 22.4% of women and 27% of men had taken out a loan in the past year; 74.6% of women and 71.6% of men had a credit card; 73.5% of women and 71.2% of men had a debit card.\(^{64}\)

In relation to entrepreneurial activity, a government report points to several barriers for women in Luxembourg, including difficulties in obtaining funds due to the specific nature of their activities, challenges linked to family life, lack of self-confidence, inefficient networks, and gender stereotypes.\(^{65}\) The government is aware of these issues and has set out to encourage female entrepreneurship in the framework of the National action plan on gender equality for 2009-14.\(^{66}\)

### 5. Restricted Civil Liberties

Luxembourg’s Constitution guarantees, inter alia, **freedom of movement** (art.12), freedom of speech and expression (art.24, and freedom of assembly (art.25) for women and men alike. Moreover, women in Luxembourg can pass on citizenship to their children.\(^{67}\)

The Conseil National des Femmes du Luxembourg (CNFL) – an umbrella NGO with 12 members – is the main platform for advocacy on women’s rights and gender equality in Luxembourg. The organisation is active at the European and international levels (for instance through the European Women’s Lobby).\(^{68}\) No restrictions on women’s collective action in Luxembourg could be found.

As regards women’s participation in decision-making, women make up 23.3% of Parliament.\(^{69}\) The Government has not adopted national **quotas** to increase women’s political participation, although four parties have voluntarily adopted quotas. Indeed, The Left (Déi Lénk) reportedly applies a 50% quota for both sexes within the party and on electoral lists; Luxembourg Socialist Workers’ Party (Lëtzebuergere Sozialistesch Arbechterpartei) has adopted a 33% internal quota for women; the Christian Social People’s Party (Chrëschtlech Sozial Vollekspartei) is said to be targeting a 33% quota for women on their party lists; and The Green Party (Déi Gréng/Les Verts) reportedly seeks to apply parity in party bodies, positions and on lists.\(^{70}\) At the sub-national level, women represented just over 20% of local council members in 2012.\(^{71}\)

---

\(^{63}\) Ibid., s.221  
\(^{64}\) World Bank (2014)  
\(^{65}\) Government of Luxembourg, Ministry of Equality, *L’entrepreneuriat féminin et masculin au Luxembourg*  
\(^{67}\) Loi du 22 février 1968 sur la nationalité luxembourgeoise  
\(^{68}\) Conseil National des Femmes du Luxembourg website  
\(^{70}\) Inter-Parliamentary Union (2013), *Global Database of Quotas for Women* (database)  
\(^{71}\) European Commission (2013a)
As regards leadership positions more generally, women accounted for 27% of senior ministers in 2013, and for respectively 25.9% and 11.9% of judges and ambassadors in 2011. Although women accounted for only 10.1% of large corporation board members in 2013, 40% of companies had more than one woman on their board in April 2013.

More

In relation to workplace rights, Luxembourg’s Labour Code prohibits employers from discriminating on the grounds of sex, and protects pregnant women by specifying that provisions relating to the protection of pregnancy and maternity are not constitutive of discrimination. Moreover, women in Luxembourg are entitled to a minimum of 16 weeks of paid maternity leave, which equates to 100.0% of their wages.

Luxembourg faces some gender-based challenges in employment, including gaps in employment rates (13.5 percentage points in 2012) and wages (8.7 percentage points in 2011), and vertical segregation. The government has committed to addressing these issues in the National action plan on gender equality for 2009-14.

Moreover, husbands are generally more economically active than their wives, with the UN reporting respective overall employment rates of 66.2% and 49.7% in 2011 (93.2% and 62.6% of husbands aged 25-49 and 50-64 were respectively employed in 2011, compared to 69.3% and 39.8% of wives in those age groups). 38.0% of mothers with children younger than 14 years of age worked 40-44 hours a week in 2008, compared to 89.2% of fathers.

According to latest UN data for 2013, there are no gender inequalities in access to ICT in Luxembourg: 92% of women had used a computer and accessed Internet in the last three months (compared to 96% of men), while 91% of women were weekly Internet users (compared to 95% of men).

---

72 European Commission (2013a)
73 UNECE
74 European Commission (2013a)
75 Labour Code, s.L 241-1
76 Labour Code, s.L 241-4
77 Labour Code, s.s.L 332-1 and L.332-2
78 Labour Code, s.L 332-3
79 European Commission (2013b)
80 (UNECE), Gender Statistical Database
81 OECD (2014)
Sources


European Commission (2014), Eurostat (database)


European Commission, European Network of Legal Experts in the Field of Gender Equality (2011), *Harassment related to Sex and Sexual Harassment Law in 33 European countries*, European Union


International IDEA, Stockholm University and Inter-Parliamentary Union (2013), *Global Database of Quotas for Women* (database)

OECD (2014), *Family database* (database), "LMF2.2.B: Distribution of working hours among adults in couple families by gender, 2008" (metadata)


UNICEF (2013b), *Childinfo – Monitoring the Situation of Children and Women* (database)


United Nations Economic Commission for Europe (UNECE), *Gender Statistical Database* (database)

