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IMPLEMENTATION OF THE INTERNATIONAL COVENANT ON ECONOMIC,
SOCIAL AND CULTURAL RIGHTS

Initial reports submitted by States parties under articles 16 and 17
of the Covenant in accordance with the programme established by
Economic and Social Council resolution 1988/4

Addendum

LUXEMBOURG

[26 September 1988]

1. Under articles 16 and 17 of the International Covenant on Economic, Social and Cultural Rights and in accordance with the programme established by Economic and Social Council resolution 1988 (LX) and with Commission on Human Rights resolutions 4 (XXXIII), 1985/42, 1986/15, 1987/19 and 1988/22, the Government of the Grand Duchy of Luxembourg submits in the following initial report its comments on its policies for the implementation, promotion and protection of economic, social and cultural rights.

Article 6: Right to work

2. Article 6 provides that the States parties to the Covenant shall recognize the right to work, which includes the right of everyone to the opportunity to gain his living by work which he freely chooses or accepts.

3. Article 11 of the Constitution of Luxembourg of 17 October 1868 provides that the law shall guarantee the right to work and assure to every citizen the exercise of this right. In Luxembourg the right to work is by law a fundamental freedom, embracing free choice of employment, free access to employment and freedom from discrimination.

4. The Act of 8 December 1981 on equal treatment of men and women in respect of access to employment, vocational training and promotion and in respect of working conditions and the Grand Ducal Regulation of 10 July 1974 on equal pay for men and women define the scope of the principle of equality between the sexes.

5. In the field of employment, the amended Act of 30 June 1976 establishing an employment fund and governing the payment of benefit for full unemployment provides adequate protection against joblessness. Responsibility for the implementation of employment policies falls largely to the Employment Administration pursuant to the amended Act of 21 February 1976, which defined the organization and functioning of that Administration and created a National Employment Commission.

6. The Employment Administration is responsible, inter alia, for:

(a) Monitoring the employment situation and labour market trends;

(b) Balancing labour supply and demand;

(c) Organizing the recruitment of foreign workers, placing them in employment and monitoring their working conditions in conformity with the relevant legislation;

(d) Organizing and providing vocational guidance for young people and, if necessary, for adults, with a view to promoting their smooth integration or reintegration into the world of work;

(e) Ensuring the implementation of legislation for the prevention and reduction of unemployment and the payment of unemployment benefits;

(f) Taking measures to help workers change to new occupations and employment in so far as this task comes within its purview under the relevant legislation;

(g) Arranging vocational training, re-education and integration into the work force for the handicapped;

(h) Maintaining technical relations with its foreign and international counterparts.

7. Luxembourg's legislation and the decisions of its courts guarantee employees strict protection against arbitrary dismissal.

8. The annexed document */ provides recent employment and unemployment figures for Luxembourg (source: quarterly report No. 2/87 of the Central Service for Statistics and Economic Studies (STATEC)).

Article 7: Right to just and favourable conditions of work

9. In Luxembourg a minimum wage is guaranteed by the Act of 12 March 1973 on the reform of the minimum social wage. This Act was most recently amended by an Act of 28 March 1986, which, among other things, raised the minimum social wage. The minima wages guaranteed by law are, like all other wages, indexed to the cost of living.

10. The law of 12 June 1965 on collective wage agreements establishes, inter alia, that any such agreement must provide for:

- (a) Additional pay for night work;
- (b) Additional pay for difficult, dangerous and unhealthy work;
- (c) Measures to implement the principle of equal pay irrespective of sex;
- (d) Measures to adjust remuneration to variations in the index published by the Government.

11. Mention should also be made here of the Grand Ducal Regulation of 10 July 1974 mentioned above, concerning equal pay for men and women.

12. The annexed document */ outlines the progress made in collective bargaining during the period 1 January 1987 to 16 July 1987 (source: STATEC quarterly report mentioned above).

13. Extensive legislation and regulations concerning work safety and hygiene provide workers in the Grand Duchy of Luxembourg with a high degree of protection. In some fields this legislation has been brought in line with that of other States belonging to the European Economic Community.

14. The Act of April 1974 on the reorganization of the Works and Mines Inspectorate grants it extensive power to monitor work safety and hygiene.

15. On the question of equal opportunity for promotion, the reader is referred to the texts already mentioned.

*/ This document, submitted by the Government of Luxembourg in French, may be consulted at the United Nations Centre for Human Rights.

16. With respect to article 7, paragraph (d), Luxembourg has extremely advanced legislation on the right to rest, leisure, limitation of working hours, periodic holidays with pay and remuneration for public holidays. The implementation of this legislation does not give rise to any major problems, since these rights are fully accepted.
17. The length of working hours for office workers is governed by the Act of 12 November 1971 on the revision of the legal regulations concerning the recruitment of private employees. The situation of manual workers is governed by an Act of 21 August 1913.
18. An Act of 22 April 1966 established uniform regulations on annual paid leave for private sector employees.
19. An Act of October 1973 provides for educational leave.
20. An Act of 10 April 1976 revised the regulations concerning legal public holidays.
21. A Grand Duchy Regulation of 11 October 1977 provides for the granting of leave to take part in sports.

Article 8: Trade union rights

22. The right to freedom of trade unions is guaranteed by article 11 of the Constitution of Luxembourg. This right also constitutes a corollary of the freedom of association, which is guaranteed by article 26 of the Constitution.
23. The right of association is furthermore governed by the Act of 11 March 1936, which guarantees freedom of association in all fields. Under this law, it is considered a criminal offence to attempt to limit freedom of association by wilfully making the conclusion, performance or continuation of an agreement concerning employment subject to a worker's membership or non-membership of an association.
24. Luxembourg has ratified the Right to Organise and Collective Bargaining Convention No. 98 (1949) and the Freedom of Association and Protection of the Right to Organise Convention No. 87 (1948) of the International Labour Organisation (ILO).
25. The Act of 12 June 1965 on collective wage agreements already mentioned recognizes as a trade union organization any professional association with an internal organization whose aim is to represent its members, defend their professional interests and improve their conditions.
26. The law assigns certain specific functions to trade union organizations that are representative at the national level. Trade unions are considered representative at the national level if they have a substantial membership and are well known for their activities and independence.
27. With respect to the right to strike, a High Court decree has stressed that participation in a legitimate and lawful strike is a workers' right set forth in article 11 of the Constitution. The exercise by a worker of the right to strike and the exercise by an employer of the right of lock-out must,

however, be preceded by genuine negotiations through the National Conciliation Office, whose procedure was established by a Grand Ducal Decree of 6 October 1945. Any strike called or lock-out declared before the conciliation procedures have all been exhausted and the failure to agree has been established in an official report is considered illegal.

Article 9: Right to social security

28. Luxembourg's social legislation organizes social security for the worker by providing a very thoroughgoing and constantly evolving social insurance system, regulating assistance to the unemployed and improving the material situation of the worker's family by means of family allowances. All the measures taken are designed to reduce the need for action by the public assistance bodies created by law to give relief to the destitute.

29. Workers and employees in the private sector are compulsorily insured for sickness, accident, old age and disability to the extent and under the conditions determined by law.

30. Since the beginning of the century, many establishments for sickness, accident, old-age and disability insurance have been created by law. These include the Accident Insurance Association, the Old-Age and Disability Insurance Institution, sickness funds, the Civil Servants' and Public Employees' Pension Fund, the Local Government Officials' and Employees' Provident Fund, the Private Employees' Pension Fund, the Agricultural Workers' Sickness Fund and Pension Fund, the Independent Professions' Sickness Fund, the Tradesmen's and Manufacturers' Pension Fund, etc. All these bodies are legally regulated public establishments, having legal status and operating under the administrative supervision of the State. Government control over all the social security institutions is exercised mainly through the Inspectorate General of Social Security, established in 1974.

Sickness insurance

31. Sickness insurance is compulsory for manual workers, assistants, companions and domestic servants as well as for those in receipt of an old-age, disability or survivor's pension (Social Insurance Code, amended by the Acts of 2 May 1974 and 6 July 1976), civil servants and office workers (Act of 29 August 1951, amended by the Acts of 21 July 1966, 2 May 1974, 6 July 1976 and 27 July 1978), persons self-employed in continuous agricultural activity (Act of 13 March 1962, article 1), and persons engaged in an independent profession coming within the purview of the Chamber of Trades or the Chamber of Commerce (Act of 23 April 1979). The same applies to independent intellectual workers such as lawyers, notaries, doctors, engineers, architects and artists (Act of 23 May 1964).

32. The financial costs of insurance are mainly covered by contributions established by the statutes of the funds and by direct or indirect contributions by the State. In the case of employees, contributions are payable in equal shares by the employers and the insured persons. Contributions by persons pursuing an independent profession are established in proportion to their taxable income. They are made entirely by the insured persons.

33. The purpose of insurance is to provide relief and medical assistance in case of sickness and to allocate confinement and nursing mother's allowances and funeral grants. The medical assistance covers, in particular, medical and dental care, pharmaceutical supplies, hospital expenses and maternity grants. The statutes of the funds generally cover medical assistance to members of the insured person's family.

Old-age and disability insurance

34. The organization of the pension insurance system is in the hands of different bodies depending on whether it relates to manual workers, office workers, craftsmen, tradesmen, industrialists, farmers or independent intellectual workers. State civil servants, employees and agents have a special non-contributory system.

35. The pension insurance system is designed to provide disability and old-age pensions for the persons concerned and, where applicable, survivors' pensions for their widows and orphans. The law has established guaranteed minimum levels of pension.

36. The rate of contribution is 10 per cent of the pay or net income, according to the status of the person concerned, plus 6 per cent adjustment rate. The contributions are payable half by the employer and half by the employee, and in full by the self-employed.

Maternity benefits

37. Following a pre-natal allowance, the birth of any viable infant gives the right to a birth allowance, a post-natal allowance and a maternity grant. Payment of these allowances is made to the mother.

Family allowances

38. Monthly family allowances are payable to persons responsible for any child under 18 years of age brought up in the Grand Duchy, i.e. to the parents of legitimate, legitimized or adopted children, to the fathers and mothers of recognized natural children, to the grandparents of fatherless and motherless children, and to any person who has given a home to a child under 12 years of age for whom he is providing education and maintenance.

39. The cost of family allowances is covered by contributions by taxpayers and by a State contribution to the family allowance funds to meet the balance not covered by those contributions.

Accident insurance

40. Work accident insurance is compulsory for all manual and office workers in all industrial and craft, commercial, agricultural and forestry enterprises. It also applies to domestic servants, craftsmen, persons working on subcontract and farm owners or tenant farmers and members of their families. Compulsory insurance has been extended to civil servants and State and local government employees, teachers, assistants and pupils on technical or vocational training courses and those engaged in pre-school, school and university activities.

41. The law treats certain occupational diseases, as determined by Grand Ducal regulations, as equivalent to work accidents.

42. The financial costs of the Accident Insurance Association are covered exclusively by the employers through a premium payment proportional to the salaries earned in each enterprise, and corresponding to the coefficient of the class of risk to which the enterprise belongs.

43. The purpose of the insurance is reimbursement for any purely material damage and compensation for damages in the event of the injury or death of the insured person. It covers in particular free medical assistance and payment of a daily allowance. If incapacity for work exceeds 13 weeks, the insured person is entitled to an allowance of 80 per cent of annual average remuneration in the case of total incapacity (full allowance) and a proportional fraction of the full rent in the case of partial incapacity.

Unemployment allowances

44. Unemployment assistance was the subject of an Act of 30 June 1976 on the establishment of an unemployment fund and rules for the granting of unemployment benefits.

45. The unemployment fund is funded by special contributions by employers, by solidarity taxes levied in the form of extra income tax and by a contribution made by the local authorities.

46. The provisions of the law apply, under specific conditions, to an unemployed worker who is usually employed, to young people who, at the end of their training, have found no employment, and to self-employed workers who have to end their activities because of economic difficulties.

47. The unemployment benefit payable to the wholly unemployed is from 80 to 60 per cent of the gross salary previously earned or of the minimum wage, according to the employment régime applicable to the worker concerned.

Article 10: Protection of the family and of mother and child

48. The family enjoys protection under the highest legal authority of the country: article 11 of the Luxembourg Constitution provides that "the State guarantees the natural rights of the human being and of the family". The Luxembourg Government regards the family as the the natural and fundamental unit of society and marriage as the most favourable framework for the harmonious development of all members of the family unit.

49. Luxembourg law respects individual liberty both when the marriage is entered into and throughout its duration. A marriage to which the future spouses have not freely consented is null and void (Civil Code, article 146). The spouses manage their households and educate their children as they wish.

50. It is only in cases where spouses are seriously remiss in their duties either towards each other or towards their children that the authorities are authorized to intervene. But even in such cases intervention is directed towards the protection of the injured party rather than to the punishment of those at fault.

51. All members of the family, without distinction based on filiation or other grounds, may request the assistance of the authorities. For this reason, it is the aim of the Government to develop the widest possible range of services to help citizens in all age groups. Those services include day nurseries, day centres, children's homes, centres for the physically and mentally handicapped, foster homes for children, marriage guidance centres, shelters for the homeless, services for battered wives, consumer assistance and information for employed persons, retirement and nursing homes, meals on wheels for the elderly, home help services and a centre for the socially maladjusted.

52. The aim of government policy is to provide assistance in all cases where there is a need, while leaving everyone free to decide whether or not to apply for it.

53. It should be stated that private initiative is responsible for most of the services available, since the State intervenes only to provide financial support or to fill gaps.

54. In the specific case of working mothers, mention should be made of the Act of 31 July 1975 which applies to all women bound by employment or apprenticeship contracts. Article 3 of that Act provides that during eight weeks preceding the expected date of birth, as shown by a medical certificate, a pregnant woman may not be required to work unless she has been expressly declared fit. During the medically certified period of pregnancy, a woman may not be discharged. Furthermore, the Act protects pregnant women against the performance of certain work which is regarded as arduous. Pregnant women and nursing mothers are prohibited by law from working overtime.

55. Furthermore, the Act guarantees paid pre-natal and post-natal leave, covering the eight weeks preceding and following childbirth. Post-natal leave may be extended to 12 weeks in cases of premature or multiple births and for nursing mothers.

Article 11: Right to an adequate standard of living

56. Since 1897, the central Government has provided financial assistance for the very poor. Previously, the local authorities were solely responsible for such assistance. Since then, many kinds of assistance have been introduced, such as supplementary benefit, a cost-of-living allowance and a heating allowance. The main innovation introduced by the Government has been recognition of the right to a guaranteed minimum income.

57. An Act of 26 July 1986 recognizes the right of everyone, subject to certain conditions, to enjoy a certain level of resources. The guaranteed minimum income for a single person is three quarters of the minimum legal wage for an unskilled worker. In practice, when a person's resources are less than those guaranteed by the new Act, the State makes up the difference. The guaranteed minimum income should enable everyone to have an adequate standard of living, the social security system being empowered to intervene in exceptional circumstances.

58. Housing is generally the most expensive item in the budget and the State intervenes both by helping people purchase housing and by making low-rent accommodation available for the very poor. The Government has already increased its financial assistance for house purchase on several occasions and has implemented social housing programmes. It intends to continue on these lines.

59. Luxembourg legislation on rent levels provides tenants with effective protection through a system whereby the current rent is automatically prolonged and by establishing a ceiling for rents proportional to the capital value of the building concerned.

Article 12: Right to physical and mental health

60. Provision for reducing the stillbirth rate and infant mortality and ensuring the healthy development of the child takes the form of regular check-ups for pregnant women and children up to the age of two, in accordance with the Act of 20 June 1977 on the introduction of regular check-ups for pregnant women and infants (Mémorial A 1977, p. 1284), amended by the Act of 28 March 1978 (Mémorial A 1978, p. 225) and the Act of 9 August 1980 (Mémorial A 1980, p. 1395). Similar check-ups for children between the ages of 2 and 4 were introduced by the Act of 15 May 1984 on the introduction of regular medical examinations for children between the ages of 2 and 4 (Mémorial A 1984, p. 657).

61. With regard to the improvement of all aspects of environmental and industrial hygiene, reference should be made to the following legislation:

(a) Act of 21 June 1976 relating to anti-air pollution measures (Mémorial A 1976, p. 605);

(b) Act of 21 June 1976 relating to anti-noise measures (Mémorial A 1976, p. 607);

(c) Act of 27 June 1906 on the protection of public health (Mémorial A 1906, p. 645), amended by the Act of 14 February 1977 (Mémorial A 1977, p. 339). This legislation deals with water pollution;

(d) Act of 16 April 1979 establishing the list and the classification of dangerous establishments.

62. With regard to the prevention and treatment of occupational diseases, mention may be made of a bill on occupational medicine.

63. Endemic and epidemic diseases are not matters of major concern in Luxembourg.

64. Medical attention is provided for everyone by the doctors practising in Luxembourg. Since most of the population are insured under the social security system, such attention is free of charge except for a very small percentage which is left for the patient to pay.

Article 13: Right to education

65. Education in Luxembourg is centralized in the sense that the State regulates in detail everything relating to education, determining how it is organized and what is taught and arranging the training of pre-school and primary-school teachers. The State exercises the right to inspect all education, including private education. The Minister of National Education is responsible for seeing that pupils are taught in the way prescribed by the legislation and regulations. The education authorities that is, the local authorities, are responsible for organizing the establishment and functioning of schools and the appointment of staff. Their decisions must be approved by the competent Ministry, which is the Ministry of National Education. It should be stressed that the policy followed by the Ministry in educational matters is determined after consultation and in collaboration with the parties concerned.

66. Two thirds of the funds for schools in general are provided by the State and the remainder by the local authorities. State schools represent 90 per cent of the total. The existing private schools are financed on the same basis as State schools and teach the compulsory subjects specified by the Ministry of Education. Civics, instruction in religion or secular ethics, art, music and sports are compulsory subjects in the curriculum of both State and private schools.

General principles of the organization of the Luxembourg educational system

Pre-school education

(Act of 5 August 1963)

67. Children between the ages of four and six can attend kindergartens, the cost of pre-school education being borne mainly by the local authorities or private organizations. Two thirds of the salaries of pre-school teachers are found from the national budget. Pre-school education is free at public kindergartens.

Primary education

68. Any child who has reached the age of six before 1 September is required to attend school education for a period of nine consecutive years (Act of 5 August 1963, as amended by the Act of 21 March 1979).

69. Children enter primary education proper if they have reached the age of 6 by 1 September of the year in question and leave at the age of 12. After six years of primary education they can go on to secondary or technical secondary education.

70. In supplementary education (enseignement complémentaire), the age of entry is 12 years and the leaving age 15. The seventh, eighth and ninth years of school constitute the supplementary course cycle, entitling the pupil to enter other kinds of post-primary education or to receive a certificate of completion of supplementary education.

Education in special classes

71. Education in special classes is available for children who, as a result of their mental, behavioural or sensorial characteristics, cannot receive instruction within the normal educational framework.

72. This form of education is provided at institutes and boarding schools, by the State, by some local authorities or by private organizations, under the supervision of the State, and in particular of the Special Education Service of the Ministry of National Education. The age range for such courses is from 3 to 15 years, with the possibility of extension. Children who are educationally backward attend special classes within the framework of normal primary education.

73. Special education centres and institutes cater for children and adolescents with special academic, educational and vocational needs and are equipped with specific resources to do so. The final aim is to integrate the children into society.

Secondary education

74. The current system of secondary education was established by the Act of 10 May 1968 on the reform of education, under title VI, "Secondary education", as amended by the Act of 13 April 1979. Secondary education comprises a seven-year course of study, the aim being to prepare pupils for advanced studies at the university level. The educational system and curricula are identical for boys and girls and the secondary schools are co-educational.

75. Admission to secondary education is possible after completion of the sixth year of primary school, subject to a successful result in the entry examination.

76. The seven years of secondary education are broken down into two divisions: (a) a lower division lasting three years, consisting of the orientation class (class 7) together with classes 6 and 5; (b) a higher division lasting four years, consisting of classes 4, 3, 2, and 1.

77. The completion of secondary education is marked by a final examination and a final certificate is awarded which gives access to university studies.

Technical secondary education

78. Technical secondary education is provided at technical schools and consists of three cycles: the observation and orientation cycle (classes 7 to 9), the middle cycle and the higher cycle.

79. Depending on their results, pupils in class 9 are placed in a technical stream or a vocational stream. The middle cycle consists of two years (classes 10 and 11), or three years including class 12 (practical work), at the end of which a certificate of technical and vocational proficiency is awarded.

80. The higher cycle consists of two additional years, with a choice between the administrative divisions (management or secretarial), the teaching division, or training as a technician. Students awarded a technician's diploma may be admitted to the Higher Institute of Technology.

Higher education

81. The University Centre of Luxembourg, established in 1968, provides first-year university education, tied in with the syllabuses of universities in neighbouring countries, thus enabling students to undertake their second year's study in a foreign country, for example, in a faculty of law in Belgium or France. This also applies to the natural sciences and humanities.

82. The Higher Institute of Technology, set up in 1979, provides a three-year training course for engineers in various fields of engineering.

83. The European Data-Processing Management Institute is responsible for post-university training, including scientific research.

84. The Higher Institute of Educational Studies and Research (ISERP) provides teacher training in conjunction with the University Centre. This course lasts three years. Four conditions have to be met to obtain admission: the applicant must hold a Luxembourg secondary education certificate or foreign equivalent must be trilingual and must not be over the age of 35.

85. The Training Institute for Educators and Instructors is responsible for training staff for the special education system.

86. The Act of 8 December 1977 introduced a system of financial grants for higher education, to enable young people to undertake their desired course of study irrespective of their or their parents' economic situation and without imposing a system of State control.

Article 14: Principle of compulsory free education for all

87. Luxembourg requires all children who have reached the age of five to attend one year's compulsory schooling in a pre-primary school. The Act introducing this pre-primary year's schooling specifically stipulates that pre-primary education may not include formal classes.

88. Compulsory schooling in the normal sense extends over a period of nine years. Children are admitted to primary education from the age of six, leaving six years later. On completion of primary education, pupils are directed, depending on their abilities and interests, into supplementary classes, secondary education, vocational training or technical secondary education. The minimum duration of this post-primary education period is three years of compulsory courses, so that by the age of 15 children have in general completed their compulsory schooling period.

89. The education provided at teaching establishments in Luxembourg is free.
