



## **Quality in Gender+ Equality Policies**

European Commission Sixth Framework Programme  
Integrated Project

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## **Issue Histories Luxembourg: Series of Timelines of Policy Debates**

Institute for Human Sciences (IWM)  
Vienna  
2007

Preferred citation: Martens, Saskia (2007): *Issue Histories Luxembourg: Series of Timelines of Policy Debates*, QUING Project, Vienna: Institute for Human Sciences (IWM), available at [http://www.quing.eu/files/results/ih\\_luxembourg.pdf](http://www.quing.eu/files/results/ih_luxembourg.pdf).

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## **Acknowledgements**

I would like to thank Mieke Verloo and Petra Meier for assisting me with good advice, for listening to my worries and for reading the chapters of this report over and over again. A special thank you for Anik Raskin of the Conseil National des Femmes du Luxembourg (CNFL) who helped me gather information on equality policies and structures in Luxembourg and who revised and gave me advice on the first chapter.

## 1 Review of equality policies and responsible institutional structures

### 1a) History of equality law and policy

Luxembourg legislation already considered the issue of equality between men and women before the establishment of a ministerial post of Equal Opportunities in 1995. This Ministry however entailed the introduction of actual gender equality legislation and policy. The Ministry of Equal Opportunities deals with gender, whereas other Ministries are responsible for the different inequalities recognised by the European Union. A landmark in Luxembourg gender policy is the introduction of equality between men and women in the constitution in June 2006.

However, not only domestic law addresses (gender) equality in Luxembourg, the European Union directives try to do so as well. With reference to the transposition of directives, the relationship between Europe and Luxembourg is rather complex, since the latter does not smoothly transpose those directives into national legislation. The abundance of references to CEDAW (Convention on the Elimination of All Forms of Discrimination against Women) in national documents, and comparatively less to the EU, leads to the conclusion that Luxembourg tends to base its gender equality policy on the United Nations Beijing Conference and on the Convention on the Elimination of All Forms of Discrimination against Women.

#### *Timing, content, controversies and shifts*

In 1974 a grand-ducal regulation stipulated equal wages for men and women in Luxembourg. Seven years later, on 8 September 1981 a law was adopted on the equal treatment of men and women in the access to work, training, working conditions and professional advancement. In 1984 the *Comité du Travail Féminin* (Women's Labour Committee) was installed by a grand-ducal regulation. This body established a landmark with reference to Luxembourg government and law concerning the position of women as regards education, employment and professional advancement. The Committee was not and is not a policy maker as such, but influences policy and advises decision makers on issues concerning the equality between men and women. Actual policy within the gender equality area only came about ten years later, in 1995, with the foundation of a ministerial post on equal opportunities between men and women.

In the early stages of this Ministry, women, and more specifically their advancement in social and civil life, were brought into focus. This was made clear in the name of the Ministry, *le Ministère de la Promotion Féminine*, which addressed *femmes / féminine* or women / females and *promotion* or advancement. Luxembourg equal opportunities thus aimed exclusively at women. Only three years ago, in 2004, the name of the Ministry changed into *le Ministère de l'Égalité des Chances* and no longer mentioned the advancement, but now focused on equal opportunities. Even though the term 'women' is not mentioned anymore, gender equality is still the focus of the Ministry's policy. The motivation for changing the name was not explained publicly, but the most obvious reason for this

choice can be found in the adaptation of Luxembourg equality politics to international and European standards and policies. Luxembourg women's organizations however were not entirely in favour of this change. Anik Raskin of the *Conseil National des Femmes du Luxembourg* (National Council of Luxembourg Women, abbreviated to CNFL) explains that the CNFL preferred a name such as *Ministère d'Égalité entre Femmes et Hommes* (Ministry of Equality between Women and Men). That denotation would clearly describe a dual policy of both specific actions and the integration of the gender dimension in all policies.

The Luxembourg Ministry of Equal Opportunities thus only addresses gender; no other areas of inequality are dealt with. Yet one Minister and person has been responsible for inequalities as regards men and women, and other inequalities, from 1995 on. Since the beginning of the current term (2004), immigrants are a matter for the Minister of Foreign Affairs and Immigration. There is no formalized attention to gender at this Ministry, other inequalities such as age (children, youth, and older people), disability, and country of origin are listed under and treated by the ministerial post of Family and Integration. This post is occupied by Marie-Josée Jacobs who is also Minister of Equal Opportunities. Therefore, gender is segregated within one Ministry, but most of the other axes of equality are treated by the same Minister within a different ministerial post. However, homosexuality or sexual orientation does not seem to be considered as an independent issue by equality policies. The law of 9 July 2004 concerns the legal effects of certain partnerships and guarantees equal civil, fiscal and social security rights to two people in a partnership who are not married. This law was introduced by the Ministry of Justice, and does not exclusively aim at homosexuals. It is interesting to note that a search on the topic *homosexuel* on the Luxembourg government's website leads to links concerning aids and drug abuse and not to an actual ministerial post dealing with specific policies on homosexual rights or to the legislation on partnerships mentioned above ([www.gouvernement.lu](http://www.gouvernement.lu), accessed on 11 July 2007). However, the information centre Cigale (*Centre d'Information Gay et Lesbienne*, Information Centre for Gays and Lesbians) is facilitated by the Ministry of Family and Integration.

At this moment, three Luxembourg Ministries therefore specifically deal with equality issues. In 1996, the era of the World Women's Conference of the United Nations, gender mainstreaming was added to the government's actions as regards gender equality. A grand-ducal regulation stipulated the creation of a *Comité interministériel de l'égalité des femmes et des hommes* (Inter-ministerial Committee on the Equality between Women and Men) which would deal with the implementation of gender equality within all policy domains and decision-making processes.

In the same year, within the framework of the International Women's Day on 8 March and on demand of the *Commission de la Famille, de la Solidarité Sociale et de la Promotion Féminine* (Committee of the Family, Social Security and the Advancement of Women), the Luxembourg parliament acquainted itself with the issue equal opportunities within domains such as feminism, CEDAW, Beijing, women and work, violence and so on. The information for the orientation debate was gathered in collaboration with women's organizations. One of the issues addressed during this debate was the second paragraph of Article 11 of the Luxembourg Constitution, namely '*Les Luxembourgeois sont égaux devant la loi*' (Luxembourg people are equal by law). According to the (women's) organizations and the

parties working on the text for the orientation debate, it was absolutely necessary to revise this part of the Constitution and to add the equality between men and women formally by law. This demand was the result of actions of the women's movement and the evolution and changes within society. The claim was enforced by referring to the Women's World Conference in Beijing in the preceding year, where women's rights were considered human rights.

Two years later, in 1998, the Committee on equal opportunities between women and men and the advancement of women again put this claim forward. In its advice concerning the project of revising Article 11 of the Constitution towards the Chamber of Deputies, it cited European good practices. The Committee argued for the integration of equality between men and women into the Luxembourg Constitution referring to the Treaty of Amsterdam, Article 119 of the Treaty of the European Community, and the directive 76/207/CEE of the European Council on the principle of equal treatment of men and women as regards employment, education, working conditions and professional advancement.

Only recently however, in March 2006, was the demand for the revision of the Constitution accepted and the second paragraph of the Luxembourg Constitution changed to include equality between men and women. Since June 2006, the second paragraph of Article 11 reads:

*Les femmes et les hommes sont égaux en droits et en devoirs. L'Etat veille à promouvoir activement l'élimination des entraves pouvant exister en matière d'égalité entre femmes et hommes.*

Women and men have equal rights and duties. The State guards the advancement of the active elimination of existing obstacles as regards the equality of women and men.

As pointed out on her website, the Minister of Equal Opportunities considers this new article the legal base for the earlier actions since the Luxembourg ratification of the CEDAW convention in 1989.

Over the years, the Committee on equal opportunities between women and men and the advancement of women has organised several of these orientation debates on gender aspects for the Chamber of Deputies. These focused on respectively the situation of women (1996), women and work (1997), women and voluntary work (1998), women's participation in the decision-making process (1999), women and the elections of 1999 (2000), domestic violence (2001), gender in education, training and work (2002), and the social and economic situation of women (2003). Since the elections of 2004, both the orientation debates of this Committee and the Committee itself have ended. From that moment on, the *Commission de la Famille, de l'Égalité des Chances et de la Jeunesse* (the Committee of the Family, Equal Opportunities and Youth) is responsible for this matter.

In 1999, much (legal) attention was paid to positive action in Luxembourg. Two laws were passed concerning the matter. The law of 25 October 1999 stipulates the creation of a Committee of Positive Actions that could advise on matters concerning positive action. On 26 October 1999 a law was adopted concerning the modalities and working of the eligible

criteria of projects of affirmative actions within enterprises in the private sector. In February 2006 the Minister of Equal Opportunities introduced a National Action Plan on Equal Opportunities between men and women. This plan supplements the fifth periodic CEDAW-country report and covers the years 2006, 2007 and 2008.

### *Relationship of (gender) equality policies to EU*

Comparable to Belgium and the Netherlands, Luxembourg is a member of the European Union since the beginning. In 1944, it formed the Benelux, a union of customs with the two neighbouring countries. The Benelux gathered with France, Germany, and Italy in the European Economic Community in 1958. Since the Treaty of Maastricht (1992), it is called the European Union. Now, in 2007, the European Union clusters twenty seven countries. Therefore, Luxembourg is one of the oldest countries belonging to the European Union. But does this translate into an immediate implementation of European Union equal opportunities policies and laws?

Even though Luxembourg is one of the oldest members of the EU, equal opportunity is a relatively new area of interest. It was only introduced as an independent and vital policy area in the mid 1990s. Not only the Netherlands, but also other member states that joined the EU later (e.g. the United Kingdom) implemented (gender) equality policies earlier. However, over the last decade, the Luxembourg government, and especially the Minister of Equal Opportunities, has worked hard at the implementation of gender equality in the country.

2005 was an important year for the relationship of Luxembourg to the European Union since it acted as president of the Council of Ministers of the European Union. A conference on the implementation of the Beijing platform for action and the outcome documents on institutional mechanisms, methods, and tools (which were reported in the outcome documents of the 23<sup>rd</sup> special session of the General Assembly in 2000) was organized, in collaboration with the European Commission, the European Parliament and the European Women's Lobby. During the Conference of the General Assembly in 2000, a significant aspect had been to bring European legislation into conformity with CEDAW. In 2005, the Luxembourg presidency issued a report on the implementation by the twenty five member states of the EU.

Therefore, not specifically the (equality) directives of the European Union as such, but rather the Convention on the Elimination of All forms of Discrimination Against Women (CEDAW) seems to have a strong influence on Luxembourg policy. Internationally speaking, the United Nations have a great influence on Luxembourg. In 2006, in its fifth CEDAW-report, the state Luxembourg wrote that 'the Convention for the Elimination of All Forms of Discrimination against Women has served the government as a central point of reference in its efforts to promote equality between women and men' (CEDAW 2006, p. 3). In 2004 the Luxembourg government adopted mechanisms to implement the CEDAW and Beijing documents. The Inter-ministerial Committee on Gender Equality drew up a national action plan which was passed at the beginning of 2005.

Within Oliver Treib and Gerda Falkner's four worlds of compliance, Luxembourg is classified in the category of 'world of neglected transposition' which means that 'the typical

reaction to an EU-related implementation is inactivity' (Treib and Falkner 2007, p. 12-13). This implies that Luxembourg neglects the stage of transposition of the EU-directives. It is often only after intervention by the European Commission that the directives are transposed correctly into domestic legislation.

The European directive 2000/43/EC concerns the equal treatment of persons, irrespective of their racial or ethnic origin as regards employment and access to goods and services. This Racial Equality Directive defines both direct and indirect discrimination. In May 2005, the member states of the European Union were reminded that they had to report on the transposition of this Directive to the European Commission by 19 July 2005. Luxembourg – as well as Austria, Germany and Finland – failed to do so and did not provide any information. Infringement procedures were initiated and finally the country was referred to the European Court of Justice (Case C 320/04 Commission versus Luxembourg). Moreover, the Luxembourg *Conseil d'Etat* debated on the implications of the word 'race', one of the grounds of the directive, and 'criticised the failure to preface "race" by terms such as "real or presumed"' (Cormack and Bell 2005, p. 21-22).

Similar to the situation relating to the Racial Equality Directive, the European Court of Justice ruled that Luxembourg had failed in a timely transposition of the Employment Equality Directive 2000/78/EC (Case C 70 /05 Commission vs. Luxembourg). This latter directive introduces new grounds of sexual orientation, religion and age to the previous three of gender, ethnicity and disability. In November 2003, two draft bills had been introduced to transpose respectively directive 2000/43/EC (*projet de loi* 5248) and directive 2000/78/EC (*projet de loi* 5249), but were rejected. Two years later, in November 2005, a new draft bill was introduced combining the two directives in one bill (*projet de loi* 5518). The bill was adopted and resulted in the 28 November 2006 law transposing both European directives into Luxembourg domestic law.

As regards the amendment to the Directive on Gender Equality or the Directive 2002/73/EC amending Council Directive 76/207/EEC on the implementation of the principle of equal treatment for men and women as regards access to employment, vocational training and promotion, and working conditions, a bill is currently being proposed by the Minister of Labour and Employment, François Biltgen. This directive extends provisions against discrimination to goods and services as well as employment. On 28 June 2001, a Luxembourg law was adopted concerning evidence in cases of discrimination based on sex. The law defines indirect discrimination but neglects direct discrimination. However, direct discrimination is addressed in the directive (2002/73/EC) of the European Parliament and the Council directive (76/207/EC). 'For purposes of that directive, "direct discrimination" means any situation "where one person is treated less favourably on grounds of sex than another is, has been, or would be treated in a comparable situation"' (CEDAW 2006, p. 6-7). The directive has to be transposed into Luxembourg law before 21 December 2007.

### *Women's organizations, trade unions and the academic world*

In 1906, the feminist movement in Luxembourg began to take shape. The bilingual women's organization *Verein für die Interessen der Frau/Association pour les intérêts de la femme* (Association for Women's Interests) was established following a conference by Käthe

Schirmacher, a German advocate of women's rights. Luxembourg's women's movement was therefore influenced by its neighbouring countries and more specifically by Germany. An important member of the Association was Aline Mayrischs, who became the first chairwoman of the Luxembourg organization. The action points comprised equal rights for women, women's right to work and education (Goetzinger 1997, p. 64-66). The Association devoted itself to, among other demands, establishing high (senior) schools for girls. The last traces of the Association are found at the start of the First World War. The first women's organization therefore did not exist long, but nonetheless the Luxembourg women's movement had emerged. As Mady Engel and Renée Wagener point out in their article on women's right to vote, the women's movement acted rather moderately with regard to women's suffrage. Nonetheless, the right to vote was introduced in Luxembourg in 1919 (Engel and Wagener 1997, p. 82-83).

In 1975, the Luxembourg women's movement, of all religions, backgrounds and political preferences, gathered in the non-profit umbrella organization *Conseil National des Femmes du Luxembourg* (National Council of Luxembourg Women (abbreviated to CNFL). Today it gathers thirteen women's organizations, as listed below:

- Action Catholique des Femmes du Luxembourg
- Association des Femmes Libérales
- Cid-Femmes
- Fédération des Femmes Cheffes d'Entreprise du Luxembourg
- Fédération Nationale des Femmes Luxembourgeoises
- Femmes Chrétiennes Sociales
- Femmes en Détresse
- Femmes Socialistes
- Fraeforum
- Union des Dames Israélites
- Union des Femmes Luxembourgeoises
- Union Luxembourgeoise du Soroptimist International
- Zonta International - section Luxembourg

The CNFL aims to work towards equality between men and women and does so by, among other functions, advising Luxembourg government as regards the position and the advancement of women in Luxembourg society. The CNFL is represented, together with government actors, in the *Comité du Travail Féminin*. Moreover, the organization is also represented in a diversity of other (inter)national associations, including the European Women's Lobby.

LIDIA – which is the abbreviation for *Liaison* (collaboration), *Discussion*, *Action* – is another non-profit umbrella organization gathering the ten women's organizations listed below:

- CID-Femmes
- Déi Greng-Frau
- Déi Lenk- Frau

- Femmes en Détresse
- Femmes Socialiste
- Landsverband Fraen
- Fraeforum
- Initiativ Liewensufank
- Rosa Lila
- Union des Femmes

Some of the members overlap with those of the CNFL. In essence, both umbrella organizations aim at improving the equality between men and women. LIDIA specifically aims to inform the public, organizes actions and discussions, and gives advice.

Next to women's organizations, Luxembourg men are represented in the organization *Association des Hommes du Luxembourg* (Association for Luxembourg men, abbreviated to AHL). As a non-profit organization, the AHL succeeds the former *Association Luxembourgeoise d'Aide aux Hommes Divorcés ou en Instance de Divorce* (Luxembourg association for helping divorced men, or men who will divorce). The AHL still focuses on divorce and more specifically the rights of fathers and children but, in comparison to the former association, it has broadened its scope by tackling other subjects such as (domestic) violence, employment, as well as prostitution. Fernard Kartheiser of the AHL points out that the association's positions often go counter to those of the government and the Ministry of Equal Opportunities and always defend men, boys and fathers.

The *Confédération Générale du Travail de Luxembourg* (General confederation of work in Luxembourg, abbreviated to OGB-L) and the *Lëtzebuurger Chrëschtliche Gewerkschafts-Bond* (Letzeburgian Christian Union for Employment, abbreviated to LCGB) are two of the main trade unions. However, trade unions in Luxembourg comprise a close connection with Belgian and more specifically Walloon trade unions. Moreover, provisions have been made for cross-border workers. Between 1980 and 1992, the latter trade union's department for self-employment was chaired by the current Minister of Equal Opportunities, Marie-Josée Jacobs.

The OGB-L has several departments, aimed at women, young people, disabled employees, and immigrants. Moreover, in November 2004, a resolution on the equality between men and women in employment and labour was added to the OGB-L's general resolutions ([http://www.ogb-l.lu/pdf/resolutions\\_2004/resolution\\_III.pdf](http://www.ogb-l.lu/pdf/resolutions_2004/resolution_III.pdf), consulted on 10 July 2007). The LCGB also has a department on women and employment, *LCGB Femmes*. The third article in the trade union's statute states that the equality between men and women is a basic principle within all actions and demands ([http://www.lcgb.lu/upload/attached/7weblcgbLCGB\\_statuts\\_fr.pdf](http://www.lcgb.lu/upload/attached/7weblcgbLCGB_statuts_fr.pdf), consulted on 10 July 2007).

Even though Luxembourg has had gender equality policy structures since the mid- 1990s, and its women's organizations date back to the beginning of the 20<sup>th</sup> century, the academic world did not initially follow. Generally, Luxembourg has a young academic background, since the University of Luxembourg (*Université de Luxembourg*) was only founded in 2003.

Equality, feminism, and gender are however, addressed, and constitute significant issues. Therefore, the university created a laboratory on gender studies (*le laboratoire de recherche "gender studies"*), which is connected to the faculty of Arts and introduces a focal point for questions concerning women's issues.

## 1b) History of equality mechanisms

### Equality mechanisms in Luxembourg

#### Ministries

Term	Women	Other inequalities	Installation of advisory boards within / or before ministerial terms		Women's Organization	
			Year	Name	Year	Name
Before 1995			1984	Comité du Travail Féminin	1975	Conseil National des Femmes du Luxembourg : 13 women's organizations
1995-1999	Ministère de la Promotion Féminine CSV – Marie Josée Jacobs	Ministère de Famille, Personnes Handicapés et Accidentés de Vie CSV – Marie Josée Jacobs	1996	Comité interministériel de l'égalité des femmes et des hommes		
			1999	Comité des Actions Positives		
1999-2004	Ministère de la Promotion Féminine CSV – Marie Josée Jacobs	Ministère de la Famille, de la Solidarité sociale et de la Jeunesse CSV – Marie Josée Jacobs	2003	Comité de coopération entre les professionnels dans la domaine de la lutte contre la violence		
2004- ...	Ministère de l'Égalité des Chances CSV – Marie Josée Jacobs	Ministère de la Famille et de l'Intégration CSV – Marie Josée Jacobs				

## Committees

As this schedule shows, Luxembourg committees often consist of a mixture of representatives of government and civil society.

Committee	Members of committee
Comité du Travail Féminin (Women's Labour Committee)	<ul style="list-style-type: none"> <li>- 4 members of women's movement, proposed by CNFL</li> <li>- 4 representatives of employment's organizations</li> <li>- 4 representatives of trade unions</li> <li>- 9 representatives of Luxembourg government</li> </ul>
Comité interministériel de l'égalité des femmes et des hommes (Inter-ministerial Committee on the Equality between Women and Men)	<ul style="list-style-type: none"> <li>- representative of every Luxembourg ministerial department</li> <li>- chaired by the Ministry of Equal Opportunities</li> </ul>
Comité des Actions Positives (Committee on positive action)	<p>Government:</p> <ul style="list-style-type: none"> <li>- 6 representatives of ministries (Equal Opportunities, Labour and Employment, Economy, National Education and professional formation, Classes moyennes, and Budget)</li> <li>- 1 representative of the Administration of Employment</li> </ul> <p>Chambers of professionals:</p> <ul style="list-style-type: none"> <li>- 5 representatives : one of la Chambre des métiers, le Chambre de commerce la Chambre des employés privés, la Chambre d'agriculture, la Chambre de travail</li> </ul>
Comité de coopération entre les professionnels dans la domaine de la lutte contre la violence (Committee on the Collaboration between professionals in the battle against violence)	<p>Government:</p> <ul style="list-style-type: none"> <li>- 4 representatives of the Ministries of Equal Opportunities (2), Justice (1), and Internal Affairs (1)</li> </ul> <p>Police and justice:</p> <ul style="list-style-type: none"> <li>- 2 representatives of the judicial authorities</li> <li>- 1 representative of the police</li> </ul> <p>Civil society:</p> <ul style="list-style-type: none"> <li>- 2 representatives of relief organizations for victims of domestic violence</li> </ul>

In November 1984 a grand-ducal regulation (*règlement grand ducal*) created the **Comité du Travail Féminin** (the Committee of Women's Work). It is an advisory body that was initially installed under the Ministry of Work, but later – in 1996 – when the Ministry for the Advancement of women originated, became a competence of that Ministry. The Committee of Women's Work is able to research (independently or commissioned by the government) all matters concerning the education, professional advancement and work of women, and can intervene on these matters within the legislative process. The body is composed of members of four different groups, namely government members (nine representatives), trade unions (four representatives), employers' organizations (four representatives) and the umbrella women's organization *Conseil National Femmes du Luxembourg* (National Council of Luxembourg women, abbreviated to: CNFL) (four representatives). Therefore the Committee of Women's Work is the only Luxembourg governmental body which invites a women's organization to take part, advise, and collaborate in the process. The presidency alternates between the members of the four different groups.

Ten years after the creation of the Committee, gender equality policy became a full-time issue for a single **Ministry**. The Luxembourg Ministry of Equal Opportunities originated in 1995 as the *Ministère de la Promotion Féminine* (Ministry for the Advancement of Women). Different Luxembourg organizations, including the umbrella women's organization CNFL, welcomed this Ministry since they had demanded policy focusing on the equality of women and men for a long time. The government formed in 1994 initially did not live up to expectations, but the subject was discussed during negotiations. Consequently, within the framework of a reworking of government, the ministerial post was created in 1995. In 2004 the Ministry's name changed and henceforth it was called *Ministère de l'égalité des chances* or Ministry of Equal Opportunities. During three terms (1995-1999, 1999-2004, 2004-...), the ministerial post has been occupied by only one person. Marie-Josée Jacobs of the *Chrëschtlech Sozial Volkspartei* (Christian Social People's Party, abbreviated to: CSV) has been the Minister responsible for equal opportunities between men and women throughout the period. Between 1995 and 1999, she was Minister of Family, the Advancement of Women, Disabled persons and *Accidentés de Vie*. Between 1999 and 2004, she was Minister of Family, Social Security, Youth and the Advancement of Women. Currently she is Minister of Family, Integration and Equal Opportunities.

In her first term (1995-1999), Minister Jacobs worked on the advancement of women's position in society. Her Ministry became responsible for the Committee of Women's Work. The Ministry for the Advancement of Women aimed to promote women's situation in order to successfully establish a real partnership between men and women. Provisions were being made to reach equal rights and duties for men and women and introduce notions proving that both masculinity and femininity are of great importance. The Ministry based itself on European strategies such as the Treaty of Amsterdam and aimed to contribute to a better professional and private life.

During the second term, the Minister for the Advancement of Women continued to aim toward promoting and improving Luxembourg women's situation and equality between men and women. She kept in close touch with several national and regional consultative bodies, with the international world, and is connected to and regularly meets the Committee on Women's Work as well as the new *Comité interministériel de l'égalité des femmes et des*

*hommes* (Inter-ministerial Committee on Equality between Women and Men). Between 1999 and 2004, the Minister was responsible for the coordination of equality policies of several ministries and commissioned research on the impact of legal measures as regards equality between men and women. In this term, positive actions were emphasized as well. Furthermore, services for informing and taking care of girls, women and mothers were created.

In the policy statement of 2004, the current Luxembourg government declared a commitment to the realization of actual and legal equality between men and women in Luxembourg and in the world. The website of the – from this moment on – *Ministère de l'égalité des chances* lists the remaining gender inequalities as follows: women earn less for the same work as men; many women are solely responsible for both labour and family; men hesitate to put in for paternity leave; and many women and men remain working in traditional female and male jobs ([www.mega.public.lu](http://www.mega.public.lu), accessed in May 2007).

The Ministry is responsible for the realization and coordination of the national action plan on gender equality, in cooperation with the other Luxembourg ministries. It is part of and/or collaborates with: the Inter-ministerial Committee on Equality between Women and Men, the *Comité pour actions positives dans les entreprises du secteur privé* (Positive Action Committee for the Private Sector), the *Comité de coopération entre les professionnels dans la domaine de la lutte contre la violence* (Committee on the Collaboration between professionals in the battle against violence), the *Comité du travail féminin* (Committee of Women's Work), and *Services pour femmes et femmes avec enfants* (Services for Women and Mothers). The activities of the Ministry therefore mainly aim at equality between men and women within education and labour (tackling stereotypical roles and career choices), work and the professions (wage, decision-making, reconciliation of work and family), and the battle against violence (with a focus on domestic violence).

In 1996, gender mainstreaming was introduced in Luxembourg policy, implemented by the aforementioned **Inter-ministerial Committee on the Equality between Women and Men**. The aim of this Committee is to make all levels of political decision-making aware of the equality of all people, to introduce the principle of equality between men and women within all policy areas and to foster equality politics. The Committee, as stipulated in the grand ducal rule, consults on all legal matters that have impact on, or are connected with, equality between men and women. The members of this Committee are correspondents for their respective ministries as regards gender equality.

Throughout the years, **other Committees** with specific 'equality' functions have been created. The *Comité des Actions Positives* (Committee on positive action) was created in 1999 by a grand-ducal rule. This body resides under the presidency of the Minister of Equal Opportunities and consists of twelve members who are representatives for different levels of government (ministries) and chambers of professionals (e.g. Chambre de métiers, Chambre de commerce and so on). In November 2003, following the law on domestic violence of September 2003, a *Comité de coopération entre les professionnels dans la domaine de la lutte contre la violence* (Committee on the Collaboration between professionals in the battle against violence) was installed. This body consists of nine members of which four representatives of the government: two of the Ministry for the Advancement of Women and a single representative from both the Ministry of Justice and the Ministry of Internal Affairs. The

other members are representatives of the juridical authority, policy, and services for victims of domestic violence. The aim of this Committee is to advise government, to study the matter and provide yearly statistics.

As stipulated in the grand-ducal regulation of March 2006, during the current legislation, ***cellules de competence en genre*** (Gender competence units) will be introduced within all Ministries in order to improve gender mainstreaming in Luxembourg. As such, the Minister of Equal Opportunities will be able to clearly see the implications as regards gender in policy. The political actions of all Ministers will be evaluated as regards the gender aspect. And finally, a long-range plan concerning equal opportunities between men and women within the domain of work and employment will be created.

### *Gender impact assessment tools*

The Luxembourg government, particularly the Ministry of Equal Opportunities, shows an initial interest in assessment tools such as an evaluation form (*fiche d'évaluation*) and gender budgeting. The Ministry hopes that these evaluation indices will help to consolidate all actions of government, legal measures and rules in order to improve equality between women and men.

The government declaration of 4 August 2004 stipulated that gender impact assessments would be made to avoid negative and unintentional consequences and improve the effectiveness of policies. The National Action Plan on equality between men and women of February 2006 established this in the form of evaluation indices in its eighth chapter on mechanisms to improve advancement. The aim of these gender impact assessment indices is to evaluate all laws, bills and measures. Policy makers are invited to ask for the advice of the Inter-ministerial Commission on Equality between Women and Men or they can complete an inquiry form to assess their policy, law or bill. During the execution of the National Action Plan, this assessment tool will be used and will be evaluated.

Alongside these gender impact assessments, there is an aim towards gender budgeting. The annual report 2006 of the Ministry of Equal Opportunities reports on a conference on gender budgeting in June 2006. The people in charge of the budget of the different ministries were advised and trained on effective budgetary measures, taking into account equality between men and women. By implementing both gender mainstreaming, gender impact assessments and gender budgeting, the Luxembourg government meets the requirements of both national women's organizations and international recommendations (as stipulated in the Ministerial Declaration of the Conference of Ministers of Gender Equality, held in Luxembourg on 4 February 2005).

## 2) Issue histories / Policy timelines

### 2a) Non-employment

#### Introduction

Before 1995, several important laws and regulations with reference to gender equality and (non-)employment were adopted in Luxembourg. An important grand-ducal regulation was passed in July 1974 and related to the equal payment of men and women (*Règlement grand-ducal du 10 juillet 1974 relatif à l'égalité de rémunération entre les homes et les femmes*). This regulation integrated article 119 of the European Union on equal pay between men and women into Luxembourg legislation.

1981 marked a shift in Luxembourg's employment legislation regarding gender equality, with the adoption of the law concerning equal access to work for men and women (*loi du 8 décembre 1981 relative à l'égalité de traitement entre hommes et femmes en ce qui concerne l'accès à l'emploi, à la formation et à la promotion professionnelles, et les conditions de travail*). This law concerns the equal access to work for men and women in companies, and equal access to formation and working conditions. The law was modified in 1986.

Within the scope of this 1981 law, a *Comité du Travail Féminin* (Committee of Women's Work) was created in 1984. It is an advisory body that was initially installed under the Ministry of Work, but later – in 1996 – when the Ministry for the Advancement of women originated, became a competence of that Ministry. The Committee of Women's Work is able to research (independently or commissioned by the government) all matters concerning the education, professional advancement and labour of women, and can intervene on these matters within the legislative process. The body is composed of members of four different groups, namely government members (nine representatives), trade unions (four representatives), employers' organizations (four representatives) and the umbrella women's organization *Conseil National des Femmes du Luxembourg* (National Council of Luxembourg women, abbreviated to: CNFL) (four representatives).

Currently, the Ministry of Equal Opportunities guides Luxembourg companies towards improving equality between male and female employees, thereby addressing the law of December 1981, and discussing measures that will improve equality between men and women within several domains. One of these domains is access to work. The measures that can be taken here include analysing job advertisements, encouraging the sex which is underrepresented in a certain position, analysing the engagements according to gender and type of job (part-time, full-time), and analysing why employees leave certain positions.

In general, the Luxembourg Ministry of Equal Opportunities financially and logistically supports firms and companies that utilise affirmative actions aimed at gender

equality at the work floor. These actions concern (among other things which do not refer to the non-employment issue such as education) human resources respecting equality between men and women, and firms enabling their female and male workers to more easily reconcile labour and family. These measures aim at improving women's participation in employment.

Moreover, the recent law of 28 November 2006 introduced a completely new chapter on equal treatment within employment matters in the Luxembourg *Code de Travail* (Employment Code). This law provided the transpositions of EC-directives 2000/43/EC and 2000/78/EC into Luxembourg legislation ([http://www.mte.public.lu/legislation/20070426\\_codetravail\\_2.pdf](http://www.mte.public.lu/legislation/20070426_codetravail_2.pdf)).

In Luxembourg, the topics within non-employment most relevant for the QUING-project comprise:

- Care work: including the law on the protection of the maternity of working women (1998) and the law on the protection of employees who are pregnant, give birth or breast-feed (2001)
- Reconciliation of work and family: with the landmark of the National Action Plan on work and the introduction of parental leave (February 1999) and its modification (2006)
- Equal treatment and pay: positive actions and fighting discrimination, with the transposition of the EU Directives (2006), the grand-ducal rule on delegates of equality (1998) and the law of burden of proof in case of discrimination based on sex (2001)
- Tax benefit policies: the research and discussion about tax splitting

#### Care work

The subissue on care work in Luxembourg is mainly interpreted by legislation concerning (the protection of) mothers and maternity. On 7 July 1998 the EU directive 92/85/EEC was transposed into Luxembourg domestic legislation concerning the protection of the maternity of working women (*Loi du 7 juillet 1998 portant modification a) de la loi du 3 juillet 1975 concernant 1. la protection de la maternité de la femme au travail; 2. la modification de l'article 13 du code des assurances sociales modifié par la loi du 2 mai 1974, B) de l'article 25 du code des assurances sociales*).

In 2001, a new law regarding this matter was adopted. The law of 1 August 2001 concerns the protection of employees who are pregnant, have recently given birth or who are breast-feeding (*Loi du 1er août 2001 concernant la protection des travailleuses enceintes, accouchées et allaitantes*). This law defines (among other things) maternity leave before and after childbirth, the rights of young mothers, several stipulations as regards night work, working conditions and protection from dismissal.

## Reconciliation of work and family

The law of 12 February 1999, introduced parental leave and leave in order to attend family affairs in Luxembourg legislation (*Loi du 12 février 1999 portant création d'un congé parental et d'un congé pour raisons familiales*). This law was adopted within the broader scope of the law on a national action plan in promoting participation in work, which, among other things, also introduced measures for another group experiencing inequality: namely young people (*Loi du 12 février 1999 concernant la mise en oeuvre du plan d'action national en faveur de l'emploi 1998*).

This National Action Plan was a response to the European Union's employment guidelines in 1998 and was rather controversial since it took a long time to be adopted. It involved many amendments and the repositioning of different parties during the parliamentary process. The bill on the NAP was submitted by government in August 1998 and was examined by a special Chamber of Deputies commission, which issued twenty-seven amendments. The Council of State expressed opposition to a number of points, among which the security system the commission had added to flexible working. Consequently, the *Chambre des Employés Privés* was very critical of the Council's standpoints, since 'the introduction of a "security" element for workers will prevent employers from changing working time schedules every four weeks just as they please, without the justification of a fluctuation in workload' (Feyereisen 1999-1, p. 2). According to the *Chambre des Employés Privés*, this would seriously affect women with young children (Feyereisen 1999-1, p. 2). Finally, before the adoption of the bill, thirty-six new amendments were issued by the Chamber of Deputies Commission, which (among other things) sought to ensure employees are able to organize their private lives next to their working lives.

Closely connected to this NAP on employment is the implementation of parental leave. Before the adoption of the law on parental leave, female employees in the private sector were able to take up one year parental leave, following maternity leave. This however did not include the guarantee of re-employment. (Hall 1998, p. 5-6) The 1996 EU Directive on parental leave (96/34/EC) required that every member state should implement provisions as regards parental leave. As Marc Feyereisen points out, this means 'a right for all employees to three months parental leave for childcare purposes, distinct from maternity leave, after the birth or adoption of a child until a given age of up to eight years' (Feyereisen 1998, p. 1). By April 1998, the *Comité de Coordination Tripartite* (Tripartite Coordinating Committee) and the social partners had proposed a bill to Parliament on parental leave. This bill states the right for both parents to each have six months full-time or twelve months part-time of parental leave, to be taken in one block.

The law of 12 February 1999 on parental leave introduces the right for parents to take up parental leave up to six months (six for one parent, and six for the other, resulting in a total of a year), either full-time or part-time. The parents cannot take up full-

time leave at the same moment, but they can opt for part-time leave which can be shared during the same period of time. One of the parents can take up parental leave directly following maternity leave or adoption leave, whereas the other can take up parental leave up to the child's fifth birthday. Re-entering the former job is guaranteed. The financial benefit resulting from the parental leave is provided for by the *Caisse Nationale des Prestations Familiales* (National Family Allowances Fund, abbreviated to CNPF), which is directly funded by the *Fonds pour l'Emploi* (Fund for Employment) (Feyereisen 1999-2, p. 1-3) Based on the numbers of July 2007, the indicative net amount in case of full-time parental leave is 1710,90 € and in case of part-time parental leave 855,44 € ([www.cnpf.lu](http://www.cnpf.lu), accessed on 17 July 2007).

In order to stipulate what was exactly meant by 'illnesses and ailments of exceptional gravity' in the case of 'family affairs' in this law, on 10 May 1999 a regulation grand-ducal was passed which defined those terms (*Règlement grand-ducal du 10 mai 1999 définissant les maladies ou déficiences d'une gravité exceptionnelle en application de l'article 15, alinéa 2 de la loi du 12 février 1999 portant création d'un congé parental et d'un congé pour raisons familiales*). The content of this modification clearly shows that the reconciliation of work and family on the one hand and care work on the other are actually intertwined in some cases.

The law of 12 February was modified by law on 22 December 2006 (*Loi du 22 décembre 2006 portant modification 1. de la loi modifiée du 12 février 1999 portant création d'un congé parental et d'un congé pour raisons familiales...*). In the build-up to the adoption of the bill on the modification of parental leave, not only the usual parliamentary advisors such as the Chambers and the Council of State issued advice, but also the Association des Hommes du Luxembourg (AHL) issued a press release. The AHL opposes the commanding tone of the law of 1999 on parental leave and the parity between the parental leave to be taken up by both parents. The AHL places the child in the centre of the discussion and states that it is important to let parents decide for themselves who, when and how parental leave will be implemented in their private and working life (AHL 2006, p. 1-3). Fernard Kartheiser of the AHL explains that since the Luxembourg government and the Ministry of Equal Opportunities adheres to parity, the advice of AHL was not implemented in the bill.

The new law on parental leave changes several provisions concerning (among other things): the right to parental leave for a parent who has not worked continuously over the last twelve months before the start of the parental leave, the time of applying for parental leave, the connection between employee and employer during the period of the leave, and procedure in the case of pregnancy during parental leave (Chambre des Métiers 2007, p. 1).

Part-time employment is an interesting tool to help employees reconcile their private / family and working life. In Luxembourg, part-time work is regulated by the law of 26 February 1993 (*Loi du 26 février 1993 concernant le travail volontaire à temps partie*). Between the passing of this law and the introduction of a NAP on employment in

1999, legislation on part-time work was strictly regulated (ESF, p. 14). Moreover, in comparison to other member states of the European Union, Luxembourg did not provide many part-time jobs. This is closely connected to the restrictions attached to this type of work, which do not incite employers to create such jobs (ESF, p. 14). From 1999, part-time employment contracts have become more flexible which should increase their number on the one hand and consequently increase the number of women in the labour market (ESF, p. 15) on the other. In 1992, 16.4% of women and 0.1% of men on the labour market in Luxembourg worked part-time. In 2002 this number had increased to 26.4% for women and 1.7% for men (Ministère de l'Égalité des chances 2004, p.23-24).

### Equal treatment and pay

Equal treatment and equal access to employment for men and women are important matters as regards both employment and non-employment. Between 1999 and 2001, Luxembourg adopted legislation concerning positive actions, which can be interpreted as a tool to obtain equal treatment and access. Currently the Minister of Equal Opportunities continues work on positive actions. An example is the *Prix féminin de l'Entreprise* (Female Prize for Companies).

Prior to these measures on positive actions, another regulation grand-ducal had already been passed. The regulation grand-ducal of 14 October 1998 on the information of the inspectorate of employment and mines as well as the employees of the establishment concerned the appointment of a delegate of equality (*Règlement grand-ducal du 14 octobre 1998 relatif à l'information de l'inspection du travail et des mines ainsi que du personnel de l'établissement concernant la désignation du délégué ou de la déléguée à l'égalité*). Such delegates have existed since the law of 1979, and the latter grand-ducal regulation stated more clearly the information on the appointment of delegates of equality. His or her function includes advising companies on equality between men and women, suggesting action plans, informing on gender equality, and taking care of individual or collective complaints.

In 1999 a grand ducal regulation stipulated the creation of a Comité des Actions Positives (Committee on positive action) (*Règlement grand-ducal du 25 octobre 1999 fixant la composition et le fonctionnement du Comité des Actions Positives*). This body resides under the presidency of the Minister of Equal Opportunities and consists of twelve representative members of the different levels of government (ministries) and chambers of professionals (e.g. Chambre de métiers, Chambre de commerce and so on).

In the same period the grand-ducal regulation of 26 October 1999 laid down the modalities of the coming into force of the eligible criteria of the positive action projects within private companies (*Règlement grand-ducal du 26 octobre 1999 relatif aux modalités de mise en oeuvre des critères d'éligibilité des projets d'actions positives dans les entreprises du secteur privé*). From this moment on, companies have to provide

information on their measures concerning positive action. One of the themes aimed at within this grand-ducal regulation is sexual harassment and mobbing (bullying) in companies.

Positive actions can be considered as tools to fight discrimination and that is something the law of 28 June 2001 also does. This law concerns the burden of proof in cases of discrimination based on sex (*La loi du 28 juin 2001 relative à la charge de la preuve dans les cas de discrimination fondée sur le sexe*). The law is intended for both public and private companies and concerns access to work, wages, chances of promotion, professional education, access to self-employment, working conditions and social security.

On 28 November 2006 Luxembourg transposed the directive 2000/78/EC of the Council on the creation of a framework in favour of equal treatment within employment matters in a domestic law and introduced a chapter on equal treatment on employment matters in the Employment Code (*Loi du 28 novembre 2006 portant 1. transposition de la directive 2000/43/CE du Conseil du 29 juin 2000 relative à la mise en oeuvre du principe de l'égalité de traitement entre les personnes sans distinction de race ou d'origine ethnique; 2. transposition de la directive 2000/78/CE du Conseil du 27 novembre 2000 portant création d'un cadre général en faveur de l'égalité de traitement en matière d'emploi et de travail; 3. modification du Code du travail et portant introduction dans le Livre II d'un nouveau titre V relatif à l'égalité de traitement en matière d'emploi et de travail; 4. modification des articles 454 et 455 du Code pénal; 5. modification de la loi du 12 septembre 2003 relative aux personnes handicapées*).

The European directive 2000/43/EC or Racial Equality Directive implements equal treatment of persons, irrespective of their racial or ethnic origin as regards employment and access to goods and services. It defines direct and indirect discrimination. Luxembourg failed to report for the May 2005 deadline. Following infringement procedures, the country was referred to the European Court of Justice (Case C 320/04 Commission versus Luxembourg). Moreover, the Luxembourg *Conseil d'Etat* debated on the implications of the word 'race', one of the grounds of the directive, and 'criticised the failure to preface "race" by terms such as "real or presumed"' (Cormack and Bell 2005, p. 21-22).

Similar to the situation regarding the Racial Equality Directive, the European Court of Justice ruled that Luxembourg had failed in a timely transposition of the Employment Equality Directive 2000/78/EC (Case C 70 /05 Commission vs. Luxembourg). This latter directive introduces new grounds of sexual orientation, religion and age to the previous three of gender, ethnicity and disability. In November 2003, two draft bills had been introduced to transpose the directive 2000/43/EC (*projet de loi 5248*) and directive 2000/78/EC (*projet de loi 5249*), but those were rejected. Two years later, in November 2005, a new draft bill was introduced combining the two directives in one bill (*projet de loi 5518*). The bill was adopted, resulting in the 28 November 2006 law transposing both European directives into Luxembourg domestic law.

## Tax benefit policies

At the beginning of the current government term, Mars di Bartolomeo, the Luxembourg Minister of Health and Social Security (*Minister de la Santé et de la Sécurité Social*) announced a reform to the pension system in which pension rights will be divided in cases of divorce: *'En tout état de cause, le Gouvernement remettra sur le chantier le projet visant à introduire le « splitting » en cas de divorce, quitte à revoir les différentes solutions possibles en l'occurrence.'* The Conseil National des Femmes du Luxembourg supports this reform and was asked for advice at the beginning of 2007. The individualisation of pension rights, often referred to as 'splitting', is an important issue which has been discussed for several years. A *groupe de travail "individualisation des droits"* (study group on the individualisation of rights) was appointed to steer the reform in the right direction. It consists of representatives of several social partners such as the Chamber of Agriculture (Chambre d'agriculture), the Conseil National des Femmes du Luxembourg (CNFL), the Ministry of Equal Opportunities, the Ministry of Social Security and the General Inspectorate of Social Security (l'Inspection générale de la sécurité sociale).

This issue is also linked with the intimate citizenship issue, since it is closely connected with marriage and divorce.

## Actors

The non-employment issue clearly shows the pressure the European Union exerts on Luxembourg. Luxembourg does not implement the EU-Directives in a timely manner. This was clearly the case with the Council's parental leave Directive, implemented in 1999, one year after the Council's deadline. The issues relating to employment and non-employment are addressed by governmental, civil society, and international actors.

Within non-employment, the governmental actors in Luxembourg are:

- Ministère de l'Égalité des Chances (Ministry of Equal Opportunities)
- Ministère du Travail et de l'Emploi (Ministry of Labour)
- Ministère de la Sécurité Social (Ministry of Social Security)
- Comité du Travail Féminin (Committee on Women's Work)
- L'administration d'Emploi (ADEM) (The Administration of Employment)
- Inspection du travail et des mines
- Conseil d'Etat (Council of State)
- Chamber of Deputies commission (with reference to the 1999 law on the national action plan as regards employment)
- Comité de Coordination Tripartite

Governmental and non-governmental actors providing information and material influencing policy-making and legislation:

- Advisory bodies during the parliamentary process regarding bill 4459 resulting in the 1999 law on the national action plan on employment and the 1999 parental leave law: Comité de Travail Féminin, Commission de l'Egalité des Chances entre femmes et hommes et de la Promotion féminine, Conseil d'Etat, Chambre des Employés Privés, Comité Directeur de la Caisse Nationale des Prestations Familiales, Commission spéciale "Plan d'action nationale en faveur de l'emploi", Chambre des Fonctionnaires des Employés Publics, Chambre d'Agriculture, Chambre de Commerce, Chambre de Travail, Chambre des Métiers
- Advising bodies during the parliamentary process regarding bill 5161 resulting in the 2006 parental leave law: Chambre des Fonctionnaires et Employés Publics, Chambre de Travail, Chambre des Employés Privés, Conseil d'Etat, Comité de Travail Féminin, Chambre de Commerce, Chambre des Métiers, Chambre des Députés, Commission de la Famille, de l'égalité des Chances et de la Jeunesse
- Advising bodies during the parliamentary process regarding bill 5161 resulting in the transposition of EU Directives 2000/43/CE and 2000/78/CE: Commission du Travail et de l'Emploi, Conseil d'Etat, Chambre de Travail, Chambre de Commerce, Chambre des Métiers, Chambre des Députés, Chambre des Employés Privés

Non-governmental actors:

- Association des Hommes du Luxembourg (AHL)
- Conseil National des Femmes du Luxembourg (CNFL)
- Trade unions : OGB-L and LCGB
- Caisse Nationale des Prestations Familiales (CNPF)
- Fonds pour l'Emploi

## Timeline

### 1998

Law of 7 July 1998 on the modification of

a) the law of 3 July 1975 concerning: 1. the protection of the maternity of working women; 2. the modification of article 13 of the social insurances code, modified by law of 2 May 1974,

b) article 25 of the social insurances code.

(Loi du 7 juillet 1998 portant modification a) de la loi du 3 juillet 1975 concernant 1. la protection de la maternité de la femme au travail; 2. la modification de l'article 13 du

code des assurances sociales modifié par la loi du 2 mai 1974, B) de l'article 25 du code des assurances sociales.) 7 July 1998.

[http://www.secu.lu/legis/legis/chrononew/A\\_1998\\_061\\_protffemtrav.htm](http://www.secu.lu/legis/legis/chrononew/A_1998_061_protffemtrav.htm)

(transposition of directive 92/85/CEE of 19 October 1992).

Regulation grand-ducal of 14 October 1998 on the information of the inspectorate of employment and mines as well as the employees of the establishment concerning the appointment of a delegate of equality. (Règlement grand-ducal du 14 octobre 1998 relatif à l'information de l'inspection du travail et des mines ainsi que du personnel de l'établissement concernant la désignation du délégué ou de la déléguée à l'égalité.) 14 October 1998.

<http://www.legilux.public.lu/leg/a/archives/1998/0923010/0923010.pdf?SID=265ffd8445cd179c55837922dfd0d0fb#page=3>

## 1999

Law of 12 February 1999 on the creation of parental leave and leave concerning family affairs. (Loi du 12 février 1999 portant création d'un congé parental et d'un congé pour raisons familiales.) 12 February 1999.

<http://www.legilux.public.lu/leg/a/archives/1999/0132302/0132302.pdf?SID=7201ff5f0fb20198cf5b9fa3bcc645d2#page=21>

### Primary

- Law of 12 February 1999 on the creation of parental leave and leave concerning family affairs. (Loi du 12 février 1999 portant création d'un congé parental et d'un congé pour raisons familiales.) 12 February 1999.  
<http://www.legilux.public.lu/leg/a/archives/1999/0132302/0132302.pdf?SID=7201ff5f0fb20198cf5b9fa3bcc645d2#page=21>
- Law of 12 February 1999 concerning the taking effect of a national action plan promoting employment (Loi du 12 février 1999 concernant la mise en oeuvre du plan d'action national en faveur de l'emploi 1998.) 12 February 1999.  
<http://www.legilux.public.lu/leg/a/archives/1999/0132302/>
- Law of 12 February concerning various measures promoting employment of young people. (Loi du 12 février 1999 portant diverses mesures en faveur de l'emploi des jeunes.) 12 February 1999.  
<http://www.legilux.public.lu/leg/a/archives/1999/0132302/>

### Secondary

- The Council of the European Union. 1996. *Council directive 96/34/EC of 3 June 1996 on the framework agreement on parental leave concluded by UNICE, CEEP and the ETUC.*  
[Http://eurlex.europa.eu/smartapi/cgi/sga\\_doc?smartapi!celexapi!prod!celexnumd oc&lq=en&numdoc=31996l0034&model=guichett](Http://eurlex.europa.eu/smartapi/cgi/sga_doc?smartapi!celexapi!prod!celexnumd oc&lq=en&numdoc=31996l0034&model=guichett) E-text.

- Links to documents of the Parliamentary process of the NAP 1999:  
[http://www.chd.lu/archives/ArchivesPortlet?lqs\\_fmid=J&lqs\\_dpuid=4459](http://www.chd.lu/archives/ArchivesPortlet?lqs_fmid=J&lqs_dpuid=4459),  
accessed in May, June and July 2007.

Law of 12 February 1999 concerning the taking effect of a national action plan to promote employment (Loi du 12 février 1999 concernant la mise en œuvre du plan d'action national en faveur de l'emploi 1998.) 12 February 1999.

<http://www.legilux.public.lu/leg/a/archives/1999/0132302/>

Law of 12 February concerning various measures promoting employment of young people. (Loi du 12 février 1999 portant diverses mesures en faveur de l'emploi des jeunes.) 12 February 1999.

<http://www.legilux.public.lu/leg/a/archives/1999/0132302/>

Regulation grand-ducal of 10 May 1999 defining illnesses and ailments of exceptional gravity in the application of article 15, paragraph 2 of the law of 12 February on the creation of parental leave and leave concerning family affairs. (Règlement grand-ducal du 10 mai 1999 définissant les maladies ou déficiences d'une gravité exceptionnelle en application de l'article 15, alinéa 2 de la loi du 12 février 1999 portant création d'un congé parental et d'un congé pour raisons familiales.) 12 February 1999.

<http://www.legilux.public.lu/leg/a/archives/1999/0582705/0582705.pdf#page=13>

Regulation grand-ducal of 25 October 1999 determining the composition and performance of the Committee on positive actions. (Règlement grand-ducal du 25 octobre 1999 fixant la composition et le fonctionnement du Comité des Actions Positives.) 25 October 1999.

<http://www.legilux.public.lu/leg/a/archives/1999/1402511/1402511.pdf?SID=426762539267e59faa8e022827ad7d06#page=3>

Regulation grand-ducal of 26 October 1999 on the modalities of the coming into force of the eligible criteria of the positive action projects within private companies. (Règlement grand-ducal du 26 octobre 1999 relatif aux modalités de mise en œuvre des critères d'éligibilité des projets d'actions positives dans les entreprises du secteur privé.) 26 October 1999.

<http://www.legilux.public.lu/leg/a/archives/1999/1402511/1402511.pdf?SID=1563ab27e219ecee20f36b5cf48c0243#page=3>

## **2001**

The law of 28 June 2001 concerning the burden of proof in cases of discrimination based on sex. (La loi du 28 juin 2001 relative à la charge de la preuve dans les cas de discrimination fondée sur le sexe.) 28 June 2001.

<http://www.legilux.public.lu/leg/a/archives/2001/0863107/0863107.pdf>

Law of 1 August 2001 concerning the protection of employees who are pregnant, have recently given birth or who are breast-feeding. (Loi du 1er août 2001 concernant la protection des travailleuses enceintes, accouchées et allaitantes.) 1 August 2001.

<http://www.legilux.public.lu/leg/a/archives/2001/1022008/1022008.pdf>

## 2004

*At the beginning of the current term of government (2004), Mars di Bartolomeo, the Minister of Health and Social Security, announced a reform of the pension system in which pension rights will be divided ('splitting') in cases of divorce.*

### Primary

- Projet no. 4340 de 1997-1998 de loi adaptant le regime general d'assurance pension.  
<http://www.secu.lu/legis/legis/Docparl/no4340/NO4340-4.html>
- Government declaration of the Minister of Health and Social Security.  
<http://www.gouvernement.lu/gouvernement/programme/programme2004/secu/index.html>
- Communiqué de presse of Mars di Bartilemeo, the Minister of Health and Social Security.  
<http://www.cnfl.lu/cnfl/news/documents/CommuniquedepresseentrevueMSS.doc>

### Secondary

- Conseil National des femmes de Luxembourg. 14 July 2003. *Note concernant l'individualisation des droits à pension.*  
<http://www.cnfl.lu/prisesposition/documents/Note%20individualisation.pdf>
- Conseil National des Femmes de Luxembourg. 17 March 2007. *Des réformes concrètes en vue?* <http://www.cnfl.lu/documents/2007-communication-entrevuechambremars.pdf>
- Déi lenk la Gauche. 1 March 2001. <http://www.dei-lenk.lu/sujet/article.asp?id=115&sub=25>

## 2006

Law of 28 November 2006 on

1. the transposition of the directive 2000/43/EC of the Council of 29 June 2000 related to enforcement of the principle of equality between people without distinction based on race or ethnic origin;
2. the transposition of the directive 2000/78/EC of the Council of 27 November 2000 on the creation of a framework for equal treatment within employment matters;
3. the modification of the Employment Code and introduction, within Book II of a new chapter V, on equality of treatment in employment matters;

4. the modification of articles 454 and 455 of the Penal Code;
5. the modification of the law of 12 September 2003 concerning disabled persons.  
(Loi du 28 novembre 2006 portant
  1. transposition de la directive 2000/43/CE du Conseil du 29 juin 2000 relative à la mise en oeuvre du principe de l'égalité de traitement entre les personnes sans distinction de race ou d'origine ethnique;
  2. transposition de la directive 2000/78/CE du Conseil du 27 novembre 2000 portant création d'un cadre général en faveur de l'égalité de traitement en matière d'emploi et de travail;
  3. modification du Code du travail et portant introduction dans le Livre II d'un nouveau titre V relatif à l'égalité de traitement en matière d'emploi et de travail;
  4. modification des articles 454 et 455 du Code pénal;
  5. modification de la loi du 12 septembre 2003 relative aux personnes handicapées.)  
[http://www.secu.lu/legis/legis/chrononew/A\\_2006\\_207\\_egalite\\_traitement.html](http://www.secu.lu/legis/legis/chrononew/A_2006_207_egalite_traitement.html)

Law of 22 December 2006 on:

- 1) the modified law of 12 February 1999 on the creation of parental leave and leave concerning family affairs
- 2) the modified law of 19 June 1985 concerning familial allocations and creating a national fund of familial benefits
- 3) the law of 2 August 2002 related to the protection of personal data
- 4) the labour code;
- 5) the modified law of 16 April 1979 fixing the general statute of state officials
- 6) the modified law of 24 December 1985 fixing the general statute of communal officials.

(Loi du 22 décembre 2006 portant modification 1. de la loi modifiée du 12 février 1999 portant création d'un congé parental et d'un congé pour raisons familiales; 2. de la loi modifiée du 19 juin 1985 concernant les allocations familiales et portant création de la caisse nationale des prestations familiales; 3. de la loi du 2 août 2002 relative à la protection des personnes à l'égard du traitement des données à caractère personnel; 4. du Code du Travail; 5. de la loi modifiée du 16 avril 1979 fixant le statut général des fonctionnaires de l'Etat; 6. de la loi modifiée du 24 décembre 1985 fixant le statut général des fonctionnaires communaux.) 22 December 2006.

<http://www.legilux.public.lu/leg/a/archives/2006/2422912/2422912.pdf>

## 2b) Intimate citizenship

### Introduction

The splitting of pension rights is a theme which belongs to two of the Quing issues. It is connected to both non-employment, since pension rights stem from labour, and to intimate citizenship, due to their connection with marital status and divorce. In this report however, the theme is discussed in the section on non-employment.

Luxembourg legislation from 1995 addresses many and diverse issues which can be encompassed within intimate citizenship. Some of the themes resulted in laws, some of these laws have been revised or currently hold the spotlight in debates in both politics and civil society (e.g. the PACs), and others have not yet become laws (e.g. abortion). One of the main issues within intimate citizenship is the adoption of the law on the legal effects of certain partnerships. Homosexuals until this moment do not have the right to marry or adopt children.

In Luxembourg, the sub-issues within the intimate citizenship issue that are most relevant to the Quing-project are:

- Civil partnerships, discrimination on the basis of sexual orientation: with the law on the PACs (2004).
- Divorce, separation, marriage: with a focus on 1. the bill (5155) on the modification of regulations and laws as regards divorce (2003) and a focus on 2. the law on the family name of children (2005).
- Reproductive rights: abortion and the recent (2007) introduction of a bill concerning the legalizing of abortion for all women, including girls.

Civil partnerships, discrimination on the basis of sexual orientation: PACs

To this date the grand duchy Luxembourg does not grant equal rights to homosexuals and heterosexuals with reference to marriage (and consequently adoption), since homosexuals are not allowed to marry. The law of 9 July 2004 however provides for another kind of partnership. This law concerning the legal effects of certain partnerships guarantees equal civil, fiscal and social security rights to two people in a partnership who are not married but want to have the advantage of equal rights relative to married couples. This law does not specifically aim at homosexual couples since it concerns two persons who have decided to live together without marrying. However, the second article of the law reads:

*Par partenariat, il y a lieu d'entendre une communauté de vie de deux personnes de sexe différent ou de même sexe, ci-après appelées les partenaires, qui vivent en couple et qui ont fait une déclaration [de partenariat].*

Partnership means the living together of two persons of a different sex or of the same sex, from now on called partners, who live as a couple and have submitted a declaration.

So even though the law does not address homosexuality as such, it grants civil, fiscal and social security rights to both heterosexual couples who have not married and homosexuals who cannot marry.

In 1995 and 1996 two initial attempts were made to introduce same-sex marriages in Luxembourg law. These *projets de loi*, the first on liberal union and the second on the reform of marriage were not continued. The new government of 1999 stipulated in its declaration that practical problems should be resolved with legal measures. One of the issues the government quoted was the fiscal, social and civil situation of homosexual couples ([http://www.gouvernement.lu/gouvernement/programme/programme\\_99/declaration\\_1999\\_fr.html](http://www.gouvernement.lu/gouvernement/programme/programme_99/declaration_1999_fr.html), accessed May 2007).

During this term the legal procedure was started by the Ministry of Justice, Luc Frieden (CSV). In 2002, a bill concerning the legal effects of certain partnerships was drawn and was adopted on 26 April 2002. On 12 May 2004 the actual bill was passed and the law was adopted on 9 July 2004 after the elections of 2004. The law became effective on 1 November 2004.

The Luxembourg law on partnership is based on the French *loi sur le Pacte Civil de Solidarité*, or 'PAC', which stems from 1999. During the parliamentary process with the CSV and DP (*Demokratesch Partei*, Democratic party) as majority parties, the non profit organization for LGBTs in Luxembourg, Rosa Lëtzebuerg, was contacted by government and gave conferences and organized debates on the subject matter in November 2002 and January 2004. The Luxembourg Green Party, Déi Gréng has always been an advocate of equal rights for LGBTs and disagreed on several points in the bill in May 2002. One of the observations in the press release by Renée Wagener and Vivianne Loschetter was that the bill aims at older couples of which the man has a job and the woman stays at home. In fact, as the Green Party stated, younger couples and homosexual people need this partnership, not the people aimed at in this bill. (Wagener and Loschetter 2002, p. 1) Other critics of the bill, who were also in favour of a partnership between people of the same sex, were Lydia Err of the socialist party LSAP who submitted the bill on liberal union in 1995 and the aforementioned LGBT organization Rosa Lëtzebuerg (Kurschat 2002, p. 1-3). These actors opposed several provisions of the bill, and later on the law, but are in favour of gay agreements such as the PACs and marriages. The 'real' adversaries of the bill are found in the religious, Catholic field and the Vatican. However, with reference to same sex marriages the Eurobarometer of the end of 2006 shows that the majority - 58% - of Luxembourgers approve same sex marriage whereas 33% disapprove (Europaforum, 2006, p.1).

The LGBT organizations, including Rosa Lëtzebuerg and Cigale, in Luxembourg remain in favour of same-sex marriages and adoption, and several of the political parties (Déi Gréng, LSAP and DP) are following. Currently, Spain has introduced a new law granting homosexuals the right to marry and this is often referred to by both Luxembourg media and LGBT organizations. However, the majority party CSV and the church do not approve. Théo Pérporté of the Luxembourg archbishopric said that even though the church does not tolerate discrimination, it cannot be in favour of opening marriage to homosexuals (Wagner 2005, p.

2). In the political field, the CSV remained after the elections of 2004 and the DP yielded its place to the socialist party LSAP.

Divorce, separation, marriage: divorce

On 27 July 1997 a law was adopted on divorce: 'Divorce. Law modifying certain measures of the civil code, the code of civil procedure, the code on criminal instruction and the law of the judicial organization'.

In May 2003 Luc Frieden, the Luxembourg Minister of Justice of the *Chrëschtlech Sozial Vollekspartei* (CSV), introduced a bill on the reform of divorce to the Chamber of Deputies. Comparable to the legal changes as regards divorce in several other European countries, such as Germany, the Netherlands, Greece and Spain, the Minister wants to replace divorce on the basis of determined causes or fault as stipulated in the Civil Code with a new kind of divorce concerning an irremediable split between husband and wife. The other form of divorce, on mutual consent, will be adjusted. This bill denotes a huge reform in Luxembourg law and aims to humanise divorce, avoid family fights and – most importantly – aims to be better for the children and persons who need to go through a divorce. Currently the bill has not been adopted yet, but is going through the parliamentary process of integrating the advice of actors such as the Conseil National des Femmes du Luxembourg. The CNFL is happy to see major changes such as (for example) co-parenting and alimony, but points out that a general approach is missing. The women's organization wonders why divorce should be reformed separately from marriage, believing that a marriage reform is necessary as well (CNFL 2006, p. 2-3). The CNFL points out that the obligations of marriage remain, whereas the violation of these obligations will no longer be punishable according to the bill.

Divorce, separation, marriage: family name of children

In December 2005 a law was adopted on the name-giving of children by their mothers and fathers. The law became effective in May 2006 and changes the rules concerning the transmission of a name as well as changing the rules on choosing the first name of children. From this moment on, women are able to transmit their family name to their children.

Reproductive rights: abortion

The Luxembourg policy debate and policy-making on reproductive rights and more specifically on in vitro fertilization is limited to their medical provision, as is stipulated in the grand-ducal regulations of 2001. Therefore it does not address the conditions and access relating to the issue.

As regards abortion, Luxembourg legislation depends on a law of 1978 (*Loi du 15 novembre 1978 relative à l'information sexuelle, à la prévention de l'avortement clandestin et à la réglementation de l'interruption de la grossesse*) which stipulates that abortion (*interruption volontaire de grossesse, IVG*) is allowed and reimbursed in a limited number of cases. When the mother or child's life is in great danger or is seriously ill, or when the

pregnancy is the result of rape, an interruption of the pregnancy is legal. As the Luxembourg non-profit organization Planning Familial states on its website, access to abortion is still not generally guaranteed. Socialist Lydia Err wants to legalize abortion for everybody until the 12th week of pregnancy and put forward a bill in March 2007. This bill aims to legalize abortion for minor girls as well and proposes to abolish the requirement of parental consent.

## **Actors**

With reference to intimate citizenship, Luxembourg actors can be found in politics, civil society as well as the church. Ethical debates in particular, of which abortion and same-sex marriages are only two (another important debate is euthanasia), are of great interest to the church. The government and its majority parties are responsible for drawing bills and adopting laws, whereas the parties of the opposition play an important role in advising and commenting. An important politician is Lydia Err of the socialist party. She works on several of the intimate citizenship issues at the same time, addressing both marriages for LGBTs and abortion. In the field of civil society, next to women's organizations, the organizations for LGBT people are of great importance.

In Luxembourg, governmental bodies involved in matters relating to intimate citizenship are:

- Minister of Equal Opportunities, Marie-Josée Jacobs
- Minister of Justice, Luc Frieden
- Minister of Health and Social Security
- Conseil d'Etat (Council of State)

The governmental and non-governmental bodies, advising on the bill on the legal effects of certain partnerships were:

- Advising organs for bill 4946 which resulted in the law on the legal effect of certain partnerships: Commission juridique, Conseil d'Etat, Chambre des Députés, Comité du Travail Féminin, Manager of the Caisse Nationale des Prestations Familiales

The (non-profit) organizations dealing with the subissues of intimate citizenship in Luxembourg are:

- Planning Familial asbl
- Eglise Catholique a Luxembourg (against abortion)
- Familles Nouvelles de Mouvement de Focalari
  
- Gay Mat
- Rosa Lëtzebuerg, LGBT organization
- Cigale, Centre d'Information Gay and Lesbien
- ILGA
  
- Conseil National des Femmes du Luxembourg (CNFL)
- Association des Hommes du Luxembourg (AHL)

The political parties involved:

- In favour of same-sex marriages: Demokratesch Partei (liberals), Déi Gréng (green party) and LSAP (socialist party) with Lydia Err
- Doubtful on same-sex marriages: CSV

Moreover, the Catholic Church and the archbishopric as well as the Vatican are against marriages or adoptions for homosexual couples.

## Timeline

This list provides a chronological overview of laws, bills and grand-ducal regulations on the subissues within the intimate citizenship theme. A link to the original text is provided as well. Shifts of government policy are placed in italics.

### 1997

Divorce. Law modifying certain measures of the civil code, the code of civil procedure, the code on criminal instruction and the law of the judicial organization. (Divorce. Loi modifiant certaines dispositions du code civil, du code de procédure civile, du code d'instruction criminelle et de la loi sur l'organisation judiciaire.) 27 July 1997.

<http://www.legilux.public.lu/leg/a/archives/1997/0571208/0571208.pdf#page=2>

<http://www.legilux.public.lu/leg/a/archives/1997/0571208/0571208.pdf?SID=66fa76905a106a22f479b6792d891cfe#page=2>

### 1998

Law of 31 January 1998 on the consent of the adoption services and definition of their obligations. (Loi du 31 janvier 1998 portant agrément des services d'adoption et définition des obligations leur incombant.) 31 January 1998.

<http://www.legilux.public.lu/leg/a/archives/1998/0091702/0091702.pdf?SID=2b5093500ffd990c677efd761363d864#page=15>

### 1999

*Declaration of the new Gouvernement du Grand-Duché de Luxembourg on resolving practical problems of homosexuals with legal measures. 12 August 1999.*

[http://www.gouvernement.lu/gouvernement/programme/programme\\_99/declaration\\_1999\\_fr.html](http://www.gouvernement.lu/gouvernement/programme/programme_99/declaration_1999_fr.html)

### 2000

1. Bill on the liberal union by Err. 2. Bill on the reform of marriage by Wagener. (1. Proposition de loi (Err) sur l'union libre. 2. Proposition de loi (Wagener) sur la réforme du mariage.) 2000.

<http://www.ce.etat.lu/html/42388.HTML>

## 2002

International adoption and the protection of children. Law of 14 April 2002 – on the approval of the Hague Treaty of 29 May 1993, on the protection of children and cooperation within the domain of adoption - modifying several dispositions of the New Civil Code, and introducing article 367-2 in the penal code. (Adoption internationale et protection des enfants. Loi du 14 avril 2002 – portant approbation de la Convention de La Haye du 29 mai 1993 sur la protection des enfants et la coopération en matière d'adoption internationale, – modifiant certaines dispositions du Nouveau Code de Procédure Civile, et – introduisant l'article 367-2 du code pénal.) 14 April 2002.

<http://www.legilux.public.lu/leg/a/archives/2002/0501705/0501705.pdf>

This link provides an overview of adoption legislation throughout the years (starting in 1974)

[http://www.legilux.public.lu/leg/textescoordonnes/compilation/recueil\\_lois\\_speciales/ADOPTI ON.pdf](http://www.legilux.public.lu/leg/textescoordonnes/compilation/recueil_lois_speciales/ADOPTI ON.pdf)

Bill 4946 on the legal effects of certain partnerships. (Projet de loi no 4946 relative aux effets légaux de certains partenariats.) 6 May 2002.

<http://www.secu.lu/legis/legis/Docparl/no4946/sommaire.htm>

## 2003

Bill 5155 on the reform of divorce. (Le projet de loi no 5155 portant réforme du divorce.) 20 May 2003.

<http://www.chd.lu/servlet/DisplayServlet?id=24621&path=/export/exped/sexpdata/Mag/009/001/026580.pdf>

### Primary

- Interview avec le ministre de la Justice Luc Frieden au sujet du projet de loi portant réforme du divorce. In : *Le Jeudi*, 19 June 2003. [http://www.gouvernement.lu/salle\\_presse/Interviews/2003/06/20030619frieden/index.html](http://www.gouvernement.lu/salle_presse/Interviews/2003/06/20030619frieden/index.html)
- Le Gouvernement du Grand-Duché de Luxembourg. 17 June 2003. *Article d'Actualité. Le ministre de la Justice Luc Frieden présente le projet de loi portant réforme du divorce.* [http://www.gouvernement.lu/salle\\_presse/actualite/2003/06/13frieden/index.html](http://www.gouvernement.lu/salle_presse/actualite/2003/06/13frieden/index.html) E-text.

Chambre de Députés. 20 May 2003. *Projet de loi No 5155 portant réforme du divorce.* Luxembourg. 26 p.

<http://www.chd.lu/servlet/DisplayServlet?id=24621&path=/export/exped/sexpdata/Mag/009/001/026580.pdf>

### Secondary

- Conseil National des Femmes du Luxembourg. 23 October 2006. *Projet de loi No 5155 portant réforme du divorce. Avis du Conseil National des Femmes du Luxembourg.* Luxembourg: CNFL. 8 p. <http://www.cnfl.lu/documents/CNFL-avis-divorce-octobre2006.pdf>

- L'Ordre des Avocats du Barreau de Luxembourg. 19 November 2003. *Projet de loi No 5155 portant réforme du divorce. Avis du l'Ordre des Avocats du Barreau de Luxembourg.* 16 p.  
<http://www.chd.lu/servlet/DisplayServlet?id=31092&path=/export/exped/sexpdata/Mag/001/001/033206.pdf>
- Links to documents of the Parliamentary process:  
<http://www.chd.lu/fr/portail/role/lois/detail.jsp?project=0&mode=number&order=descend&page=5> accessed in May, June and July 2007

## 2004

Law on the legal effects of certain partnerships. (La loi relative aux effets légaux de certains partenariats.) 9 July 2004.

<http://www.gouvernement.lu/dossiers/justice/partenariat/index.html>

### Primary

- Le gouvernement du Grand-Duché de Luxembourg. 2004. *La loi relative aux effets légaux de certains partenariats.*  
<http://www.gouvernement.lu/dossiers/justice/partenariat/index.html> E-text.
- Effets légaux de certains partenariats. Loi du 9 juillet 2004 relative aux effets légaux de certains partenariats. *Mémorial A* 2004, 143 : 2020-2038.
- Le gouvernement du Grand-Duché de Luxembourg. 12 May 2004. *Article d'actualité. La loi relative aux effets légaux de certains partenariats adoptée par la Chambre des députés.*  
[http://www.gouvernement.lu/salle\\_presse/actualite/2004/05/12partenariat/index.html](http://www.gouvernement.lu/salle_presse/actualite/2004/05/12partenariat/index.html)  
E-text.
- No 4946. *Projet de loi relative aux effets légaux de certains partenariats. Sommaire.* 2004.  
<http://www.secu.lu/legis/legis/Docparl/no4946/sommaire.htm>
- Le Gouvernement du Grand-Duché de Luxembourg. 1999. *Déclaration gouvernementale de 12 août 1999.*  
[http://www.gouvernement.lu/gouvernement/programme/programme\\_99/declaration\\_1999\\_fr.html](http://www.gouvernement.lu/gouvernement/programme/programme_99/declaration_1999_fr.html) E-text.
- 1. *Proposition de loi (Err) sur l'union libre.* 2. *Proposition de loi (Wagener) sur la réforme du mariage. Avis du Conseil d'Etat.* 2000.  
<http://www.ce.etat.lu/html/42388.HTML> E-text

### Secondary

- Wagener, Renée and Viviane Loschetter. 2002. 'Le partenariat luxembourgeois: un PACS perverti. Conférence de presse du 6 Mai 2002.' *Dei Greng.*  
[http://www.greng.lu/index.php?level1=20&level2=23&level3=0&co\\_group\\_id=16&fidlanguage=2&lang=&idusergroup=&idsous=&action2=&action=archive#](http://www.greng.lu/index.php?level1=20&level2=23&level3=0&co_group_id=16&fidlanguage=2&lang=&idusergroup=&idsous=&action2=&action=archive#)  
E-text, consulted on 13 July 2007.
- Links to documents of the Parliamentary process:  
<http://www.chd.lu/archives/ArchivesPortlet?selectedDocNum=0&secondList=&action=document>  
accessed in May, June and July 2007

## 2005

Name of children. Law of 23 December 2005 on the name of children. (Nom des enfants. Loi du 23 décembre 2005 relative au nom des enfants.)  
<http://www.legilux.public.lu/leg/a/archives/2005/2243012/2243012.pdf>

### Primary

- Le Gouvernement du Grand-Duché de Luxembourg. 1 May 2006. *Article d'actualité. Entrée en vigueur le 1er mai 2006 de la loi relative au nom des enfants.*[http://www.gouvernement.lu/salle\\_presse/actualite/2006/05/01noms\\_enfants/index.html](http://www.gouvernement.lu/salle_presse/actualite/2006/05/01noms_enfants/index.html) E-text.
- Err, Lydie and Laurent Mosar. 2005. *Der Name des Kinder. Le Nom de l'Enfant.* Luxembourg: Chambre des députés de Luxembourg. 32 p.  
[http://www.chd.lu/docs/pdf/Nom\\_enfant.pdf](http://www.chd.lu/docs/pdf/Nom_enfant.pdf)
- Nom des enfants. Loi du 23 décembre 2005 relative au nom des enfants. *Mémorial A* 2005, 224 : 3757-3760.  
<http://www.legilux.public.lu/leg/a/archives/2005/2243012/2243012.pdf>
- *Projet de loi relative aux prénoms des enfants. Proposition de loi relative aux prénoms des enfants. Deuxième avis complémentaire du Conseil d'Etat.* 22 November 2005 <http://www.ce.etat.lu/html/45612;46183AC2.htm>

## 2007

Bill 5701 on the reform of the law of 15 November 1978 concerning sexual information, the prevention of clandestine abortion and the regulations as regards the interruption of pregnancy. (5701 - Proposition de loi portant modification de la loi du 15 novembre 1978 relative à l'information sexuelle, à la prévention de l'avortement clandestin et à la réglementation de l'interruption de la grossesse). 13 March 2007.

<http://www.chd.lu/servlet/DisplayServlet?id=56241&path=/export/exped/sexpdata/Mag/079/566/057685.pdf>

### Primary

- Le gouvernement du grand-duché de Luxembourg. 3 February 2005. *Le ministre de la Santé, Mars Di Bartolomeo, au sujet de l'avortement au Luxembourg.*  
[http://www.gouvernement.lu/salle\\_presse/Interviews/2005/02fevrier/20050203di\\_bartolomeo\\_Jeudi/index.html](http://www.gouvernement.lu/salle_presse/Interviews/2005/02fevrier/20050203di_bartolomeo_Jeudi/index.html)
- Advise of Committee of National Ethics on introduction of Mifegyne (abortion pill)  
[http://www.cne.public.lu/publications/avis/2000\\_2.pdf](http://www.cne.public.lu/publications/avis/2000_2.pdf)
- 13 March 2007. 5701 - Proposition de loi portant modification de la loi du 15 novembre 1978 relative à l'information sexuelle, à la prévention de l'avortement clandestin et à la réglementation de l'interruption de la grossesse - Auteur: Mme Lydie Err page 304  
<http://www.chd.lu/servlet/DisplayServlet?id=56241&path=/export/exped/sexpdata/Mag/079/566/057685.pdf>

## Secondary

- Demokrateisch Partei. 2005. La législation sur l'avortement: Des réalités sociologiques largement ignorées. <http://www.dp.lu/news/index.php?idNews=258> E-text
- Greng. Traite des femmes à Luxembourg - un tabou à briser [www.greng.lu/document\\_center.php?iddownload=196](http://www.greng.lu/document_center.php?iddownload=196)

## 2 c) Gender based violence

### Introduction

Since its inception in 1995, the Luxembourg Ministry of Equal Opportunities has paid attention to violence against women and girls. From the start, the Ministry's aim was to elaborate Luxembourg legislation in order to protect women. Before this Ministry came into being however, the Ministries of Labour, Family and Justice had already taken interest in the matter. Fighting violence against women became an important issue within Luxembourg politics and legislation from the 1990s onwards. Not only were specific campaigns launched and acts implemented, the Luxembourg Criminal Code addresses the issue as well (even before the 1990s).

In 1993, a campaign against sexual harassment at work was launched by the Ministry of Labour. This campaign was funded jointly by the European Commission and was based on a survey, carried out by the Luxembourg Institute of Social and Market Research (ILRES) and funded by the Ministry. A year later, in 1994, the Ministry of Family and the Ministry of Justice joined forces with the Conseil National des Femmes du Luxembourg (CNFL), Luxembourg women's shelters, and the 'Rape Info' service in order to campaign against violence towards women. A booklet and a poster with the slogan 'Breaking the silence' were distributed. Additionally training days and information meetings aiming at local and state police officers were organized. From this moment on, the training of police officers includes a segment on female victims of violence. Throughout these campaigns, starting in the early 1990s and continuing until today, the Luxembourg government has always worked in close conjunction with women's organizations, NGOs and relief organizations.

In Luxembourg, the sub-issues within the gendered violence issue that are most relevant for the period studied by the Quing project (from 1995 on) are:

- Sexual assault and rape, trafficking and prostitution, and FGM: including the campaigns to fight violence against women.
- Domestic violence, including the law on domestic violence and the eviction of the offender (2003).
- Sexual harassment, including the law on unwanted sexual behaviour at work (2000).

Sexual assault and rape, trafficking and prostitution, and FGM

The 1993 United Nations Declaration on the Elimination of Violence against Women recognised a wide range of forms of violence against women as violations of human rights. In the same year, Luxembourg introduced the 'Breaking the silence' campaign and focused attention to violence against women. In 1999 the Ministry for Equal Opportunities started a new campaign against violence towards women and girls. 1999 therefore was a key year in policy making and campaigns about gendered violence in Luxembourg. The new campaign aimed at making visible violence in all its forms, using the UN Declaration as a starting point. Moreover, it wanted to stress ways of defence for the female victims. About thirty of Luxembourg women's organizations were part of this *Fini les compromis. Contre la violence*

*a l'égard des femmes et des filles* (No more compromises: against violence towards women and girls). *Fini les compromis* addressed violence – as something which could happen to any women at any time in her life – such as the aggression women could encounter in the streets, sexual harassment at work and by telephone, domestic violence and negative representation of women in the media and in pornography.

The topics addressed in acts and regulations are mainly domestic violence and sexual harassment at the work place. Other subissues, such as sexual violence and pornography, are regulated through the Luxembourg Criminal Code. Prostitution is not considered an offence in Luxembourg. As regards female genital mutilation, Luxembourg legislation does not seem to recognise any specific offence. However, the provisions of the Criminal Code concerning deliberate injuries can be applied, as stated in the 2007 report by the Council of Europe on *Legislation in the member states of the Council of Europe in the field of violence against women*. Until 1992, when the Act of 10 August concerning the protection of young people was adopted, rape had a very narrow definition which was restricted to vaginal penetration which could lead to pregnancy. The Act on the protection of young people corrected and broadened this definition, imposing higher penalties when such violence is committed towards people who are younger than fourteen.

#### Domestic violence

Within the 1999 campaign, domestic violence became an important issue. Legislation was evaluated and the new government of August 1999 committed itself to introducing new legislation with reference to domestic violence and more specifically the eviction of the offender from the home. Moreover, between 1999 and 2000 the Ministry for Equal Opportunities set up a network of female instructors to train police officers, doctors and nurses, and social workers in detecting signs of domestic violence. They organised training modules on the subject for professionals in the social and educational sectors and prospective police officers at the Luxembourg police training college.

In 2001, a debate on domestic violence was held in the Chamber of deputies, by the Committee on equal opportunities between women and men and the advancement of women. Throughout the years a change had come about in the way domestic violence was considered both by the prosecuting authorities and the courts. Domestic violence was no longer considered as a private matter, but as an offence punishable by law. In the same year, the Minister of Equal Opportunities, Marie-Josée Jacobs, proposed a bill on domestic violence which would modify the law of 31 May 1999 on the general inspection and police, the penal code, the criminal instruction code, and the new code on civil procedures. From that moment on the parliamentary process started and several boards and committees as well as civil society (NGOs working in the field, such as *Femmes en Détresse*) were asked for advice. As Anne Heniqi writes in her article in *d'Land* (Heniqi 2002, p. 1 of 4), from the introduction of the bill there was a consensus between all the major political parties of the opposition and the majority. However several amendments were made on the subject of the eviction of the offender and his contact with his children. In general, the three main aims of the bill were: preventing domestic violence, punishing the offenders of domestic violence and raising public awareness.

In 2003 the domestic violence bill was passed. The Luxembourg law of 8 September 2003 on domestic violence allows expelling the person who has committed domestic violence. The offender remains expelled from home for 10 days. During this period, the offender is forbidden – under penalty – to return home. Therefore, the police will take possession of house keys. Within the scope of this law, a service has been created to assist, guide and inform the victims of domestic violence. The services (e.g. *Femmes en détresse*) contact the victims. For the 10 days following the expulsion, the victim has the right to ask the president of the *Tribunal d'Arrondissement* to prohibit the offender from returning home. This measure remains legitimate for three months. In certain cases, the court can adjudge complementary measures such as the interdiction to contact and approach the victims, to visit certain locations, and to accommodate children.

The accompanying grand ducal rule of 24 November 2003 stipulated that professionals within the domain of domestic violence should cooperate in a committee working on the implementation of the law of 8 September and studying statistics. This Committee consists of four representatives of government (two from the Ministry for the Advancement of Women, one from the Ministry of Justice and one from the Ministry of Internal Affairs), two representatives of the judicial authorities, one member of police and two representatives of relief organizations for domestic violence.

Before the law, Luxembourg NGOs already provided shelters. Fraenhaus, a refuge, was established in March 1980 and offered shelter for victims of domestic violence. In the months following the 2003 law and grand-ducal rule several organizations were founded to help and simplify the implementation of the law. Between December 2003 and March 2004 a telephone line for male offenders was installed and funded by the Ministry. It was established as a part of a project sponsored by the European Association for Counselling on Violence (EUGET), under the European DAPHNE programme for preventing violence against women and children. In February 2004 *Riicht Eraus* (Outreach), a consultation and assistance centre for violence offenders, was funded by the Ministry. In November 2003 the Luxembourg Ministry for the Advancement of Women hosted an international symposium on the topic in order to boost public awareness of the issue.

In its shadow report for the Beijing + 10 official report, the CNFL elaborated on Luxembourg's policy in the field of violence against women. The domestic violence act is welcomed by Luxembourg women's organization but is also a target of criticism. Without further elaboration on the matter, the CNFL denotes that the coming into force of the law has shown that the parts of the law on the possibility of the eviction of the offender should be modified. The umbrella organization explains in more detail that the law has not increased the number of beds in shelter houses and that still not enough legal information for victims is provided. Moreover, the CNFL states that it is of great importance to keep campaigning and raising awareness on the matter (CNFL 2004, p.4).

In 2006 the Ministry of Equal Opportunities commissioned a report to evaluate the implementation and implications of the law. In her substantial study on the domestic violence law, Beate Stoff makes recommendations based on a detailed analysis (comprising surveys and interviews with parties involved) of the practical functioning of the law. The functioning of the policy system, the women's shelters and the services for offenders are some of the themes addressed, as well as possible changes to the law. In general, the law does not need

to be revised urgently, but several parts are subject to criticism. The first is the length of the eviction of the offender, which is currently ten days. This period seems to be too short and the report proposes to extend the period to fourteen days. The second recommendation by Beate Stoff concerns those cases of domestic violence in which the offenders are underage and the violence is aimed at the parents. It might be better to refer these offenders to juvenile court and child protection services instead of applying the domestic violence act. In a last recommendation, Beate Stoff wonders if it would be better to treat the offenders of domestic violence outside of the legal system as well (Stoff 2006, 121).

The Luxembourg government did not stop fighting domestic violence throughout the years. The latest campaign, between March 2007 and March 2008, is based on the campaign introduced by the Council of Europe in Madrid in November 2006. It stresses the fact that every offender of violence in Luxembourg shall be evicted, because that is the law (*Toute personne violente sera expulsée de son domicile. C'est la loi.*). The aim is to reduce domestic violence and to make the public aware of the issue.

### Sexual harassment

On 27 November 1991 the Commission of the European Union made a recommendation and advised its member states to take measures against sexual harassment. Luxembourg thus far had not taken any specific legal steps. Until that moment, several provisions of the criminal code could be applied: those on public affront to moral standards, offence against decency, assault and battery, and rape (Feyereisen 2000, p. 1). However, no specific legislation dealing with the phenomenon existed, complicating the legal process. In addition, in 1993, a survey among female employees in Luxembourg showed that 13% of these women had been victim of an act of sexual harassment (Feyereisen 2000, p.1). The importance of combating sexual harassment therefore was stressed in the government policy statement of 22 July 1994. At the end of 1996, the Ministry of Equal Opportunities brought a bill on sexual harassment at the workplace, but it was not adopted.

In April 1998 a new bill was introduced by the Minister of Equal Opportunities. Two years later, on 26 May 2000, the sexual harassment act was adopted. This act provides a definition of sexual harassment:

The term “sexual harassment” is understood to refer to any physical, verbal or non-verbal conduct based on sex which the perpetrator ought to know affects the dignity of a person in the workplace [...]  
(CEDAW 2002, p. 11)

Next to this definition, the law connects sexual harassment to a violation of the equal treatment of men and women. Further, the law states that any action taken against the victim or witnesses of sexual harassment, such as dismissal, is invalid. Moreover, employers should guarantee a harassment-free workplace and take measures, and disciplinary sanctions should be included in the collective agreements. An equality delegate and the staff committee are responsible for assisting and advising the victim and if she or he wants to resign s/he can do so without notice and the employer still needs to pay compensation. The

law does not apply penalties and the Inspection du Travail et des Mines (Inspectorate of Labour and Mines) is in charge of the monitoring.

In addition to this act, the Ministry of Equal Opportunities gives Luxembourg companies the chance to formally combat violence at work. This implies that the companies write a declaration stating that they do not and will not tolerate harassment of any kind at the work place, and that they want to provide their employees with a working environment based on dignity and respect. The Ministry published a guide with information on the declaration, appointing a confidant and installing a consultation office.

In both the bill and the law stemming from it, trade unions were given an important function since the employee representatives (and also equality delegates) play an important role as regards the assistance and guidance in the case of sexual harassment. Moreover, the social partners play a key role in the prevention of sexual harassment when negotiating collective agreements (Feyereisen 2000, p.2). During the parliamentary process, advice was provided by the different Chambers of economic and social groups (e.g. the Chamber of Labour, Chamber of Commerce). The main criticism was that the (initial) definition was too subjective. The Council of State amended the bill with several agreements before it was passed. The Council of State included the public sector as well, since the government's intentions in the initial bill were solely aimed at the private sector. Comparable to the former remarks given during the advice of the diverse Chambers, the Council of State pointed at the subjectivism since different people react differently to certain conduct. Therefore in the final law was stressed that the perpetrator knows or ought to know that he affects the dignity of a person. The last remark by the Council concerned the burden of proof, which was included in the bill. The victim had to prove that an offence has taken place, and the offender consequently has to prove that he did not do it (Feyereisen 2000, p. 3-4).

Three years later, in 2003, the financial sector pulled its weight and introduced 'guidelines for conduct relating to sexual harassment'. The three parties involved are the *Groupement des chefs du personnel*, which is a group of human resources managers, the *Association des Banques et Banquiers du Luxembourg* (Association of Banks and Bankers of Luxembourg, abbreviated to ABBL) and the *Association pour la santé au travail du secteur financier* (Health Association for the Financial Sector, abbreviated to ASTF). The guidelines, aiming at managers and employees, recalled the law of 2000. The initiative also entails a panel of six external (Belgian) confidential advisers and five doctors of the ASTF who will listen, advise and guide in cases of sexual harassment (Feyereisen 2003, p. 1).

## **Actors**

As the grand-ducal rule of November 2003 on the establishment of the *Comité de coopération entre les professionnels dans la domaine de la lutte contre la violence* clearly indicates, the collaboration between government, police, the legal system and NGOs in Luxembourg works very well. Gender based violence therefore is an area which is handled with great care, by many actors in different fields. The government is responsible for the legislation in the field, and is advised by professionals in the sector. At the same time, civil society helps and advises both victims of gender based violence as well as the offenders.

The governmental actors involved in Luxembourg policy-making between 1995 and 2007 as regards gendered violence are:

- Ministry of Equal Opportunities
- Ministry of Labour
- Ministry of Family
- Ministry of Justice
- European Commission
- Conseil d'Etat (Council of State)

Governmental and non-governmental actors providing information and material which influence policy-making and legislation:

- Luxembourg Institute of Social and Market Research (ILRES)
- Committee working at the implementation of the law of 8 September and studying statistics
- Beate Stoff
- Conseil National des Femmes du Luxembourg (CNFL)
- Advising organs for bill 4801 which resulted in the domestic violence act: Chambre de Travail, Chambre de Commerce, Chambre des Employés Privés, Femmes en Détresse, Chambre des Fonctionnaires et Employés Publics, Chambre des Métiers, judicial authorities, Procurator-General of State, Supreme Court, Tribunal of Luxembourg and of Diekirch, Justice de Paix de Luxembourg et de Diekirch, Commission de l'Egalité des chances entre femmes et hommes et de la Promotion féminine, Conseil d'Etat
- Advising organs for bill 4432 which resulted in the sexual harassment act: Comité du Travail Féminin, Chambre des Employés Privés, Chambre de Travail, Chambre des Métiers, Conseil d'Etat, Chambre de Commerce, Commission de l'Egalité des chances entre femmes et hommes et de la Promotion féminine

The Luxembourg actors that are responsible for the assistance, aid, guidance, counselling and informing (of) victims are:

General:

- Local and state police
- Service d'Urgence
- Doctors, nurses and social workers
- Trade unions: OGB-L and LCGB
- Inspection du Travail et des Mines

Specific:

- Fraentëlefon
- Femmes en détresse asbl: bureau d'information et de consultation pour femmes and Service d'assistance aux victimes de violence domestique (SAV)
- Conseil National des Femmes du Luxembourg : Foyer Sud « Fraen an nout »
- Fondation Maison de la porte ouverte : centre Ozanam
- OGB-L Abteilung Frauen

- LCGB Femmes
- Association des Hommes du Luxembourg (AHL)
- Mobbing.lu ([www.mobbing.lu](http://www.mobbing.lu))
- Equality delegates
- Groupement des chefs du personnel
- Association des Banques et Banquiers du Luxembourg
- Association pour la santé au travail du secteur financier

Women's shelters :

- Conseil National des Femmes du Luxembourg  
Foyer Sud « Fraen an nout »
- Femmes en Détresse asbl  
Frauenhaus Lëtzebuerg  
Meerderchershaus
- Fondation Maison de la Porte Ouverte  
Foyer Paula Bové  
Hôtel Maternel  
Foyer Sichem  
Eeschwëller-Haus-Edith-Stein
- Fondation Pro Familia  
Centre Familial Bethlehem
- Noémie asbl

Luxembourg actors targeting the offenders of domestic violence are:

- Riicht Eraus
- Telephone line for male offenders

## **Timeline**

This timeline provides a chronological overview of laws, acts and grand-ducal rules on the subissues within the gendered violence theme. For every law, act or grand-ducal rule a link is provided to the original text. Shifts in government policy are also included and are placed in italics.

### **1995**

*The Ministry of Equal Opportunities is established and takes an immediate interest in violence against women and girls. The Ministry aims to elaborate legislation in order to protect women.*

### **1997**

Bill on sexual harassment at the workplace.

## 1999

*Campaign of Ministry of Equal Opportunities in association with several women's organizations. No more compromises. Against violence against women and girls. (Fini les compromis. Contre la violence à l'égard des femmes et des filles.)*

Measures against trafficking in human beings and the sexual exploitation of children and amending the Criminal Code and the Code of Criminal Procedure. 31 May 1999.

*In a Government Declaration of 12 August 1999, the Government committed itself to passing legislation on the eviction of perpetrators of domestic violence from the family home.*

[http://www.gouvernement.lu/gouvernement/programme/programme\\_99/accord\\_coalition\\_1999\\_fr.html#14](http://www.gouvernement.lu/gouvernement/programme/programme_99/accord_coalition_1999_fr.html#14)

*The Ministry of Equal Opportunities established a network of female instructors to train professionals in the police, the medical professions and social workers in how to detect signs typical of domestic violence. Training modules aimed at professionals in the social and educational sectors and prospective police officers at the Luxembourg police training college.*

## 2000

Bill on the protection against sexual harassment at the work place and modification of several other laws. Bill on the protection of men and women's dignity at the work place. (Projet de loi concernant la protection contre le harcèlement sexuel à l'occasion des relations de travail et portant modification de différentes autres lois. Proposition de loi sur la protection de la dignité des femmes et des hommes au lieu de travail.) 9 March 2000.

[http://www.chd.lu/docs\\_st/pdf/4432-13.pdf](http://www.chd.lu/docs_st/pdf/4432-13.pdf)

Protection against sexual harassment at the work place. Law of 26 May 2000 concerning the protection against sexual harassment at the work place and modification of several other laws. (Protection contre le harcèlement sexuel à l'occasion des relations de travail. 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.) 26 May 2000.

<http://www.legilux.public.lu/leg/a/archives/2000/0503006/0503006.pdf>

### Primary

- CEDAW. 2002. *Consideration of reports submitted by States parties under Article 18 of the Convention on the Elimination of All Forms of Discrimination against Women. Fourth periodic reports of State parties. Luxembourg.*
- Protection contre le harcèlement sexuel à l'occasion des relations de travail. 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. *Mémorial A2000. Journal Officiel du Grand-Duché de Luxembourg*: 1109-1112.  
<http://www.legilux.public.lu/leg/a/archives/2000/0503006/0503006.pdf>
- Chambre de Députés du Grand-Duché de Luxembourg. 2000. *Dossier thématique. Harcèlement sexuel*. Luxembourg, 252 p. [http://www.chd.lu/docs\\_st/pdf/Harcfull.pdf](http://www.chd.lu/docs_st/pdf/Harcfull.pdf)

- Chambre de Députés. 2000. *Projet de loi concernant la protection contre le harcèlement sexuel à l'occasion des relations de travail et portant modification de différentes autres lois. Proposition de loi sur la protection de la dignité des femmes et des hommes au lieu de travail. Rapport de la commission de l'égalité des chances entre femmes et hommes et de la promotion féminine.* Luxembourg. 12 p.  
[http://www.chd.lu/docs\\_st/pdf/4432-13.pdf](http://www.chd.lu/docs_st/pdf/4432-13.pdf)

### **Secondary**

- Links to documents of the Parliamentary process of the sexual harassment law:  
[http://www.chd.lu/archives/ArchivesPortlet?lqs\\_fmid=J&lqs\\_dpuid=4432](http://www.chd.lu/archives/ArchivesPortlet?lqs_fmid=J&lqs_dpuid=4432),  
accessed in May, June and July 2007

*The Ministry of Equal Opportunities publishes a guide to improve the equality of men and women. The notion of a declaration in which companies ban discrimination and harassment is introduced.*

Example of declaration:

[http://www.mega.public.lu/actions\\_projets/travail\\_emploi/actions\\_positives/guide/culture/declaration\\_harcelement/exemple\\_declaration\\_harcelement.pdf](http://www.mega.public.lu/actions_projets/travail_emploi/actions_positives/guide/culture/declaration_harcelement/exemple_declaration_harcelement.pdf)

The guide by the Ministry of Equal Opportunities:

[http://www.mega.public.lu/publications/1\\_brochures/2004/guide\\_entreprise/plan\\_egalite\\_pdf.pdf](http://www.mega.public.lu/publications/1_brochures/2004/guide_entreprise/plan_egalite_pdf.pdf)

### **2001**

*The Committee on equal opportunities between women and men and the advancement of women organises orientation debates on domestic violence for the Chamber of Deputies.*

*The Minister of Equal Opportunities, Marie-Josée Jacobs proposes a bill on domestic violence. 17 May 2000.*

Bill number 4801/00 on domestic violence to modify 1) the law of 31 May 1999 on the general inspection and police ; 2) the penal code; 3) the criminal instruction code; 4) the new code on civil procedures (Projet de loi n°4801/00 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 et 5) du code civil) 17 May 2001.

### **2003**

*Domestic Violence Bill was passed by the Chamber of Deputies with 59 votes in favour and 1 abstention. 15 July 2003*

Domestic Violence. Law on domestic violence to modify 1) the law of 31 May 1999 on the general inspection and police; 2) the penal code; 3) the criminal instruction code; 4) the new code on civil procedures. (Violence domestique. Projet de loi 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.) <http://www.legilux.public.lu/leg/a/archives/2003/1480310/1480310.pdf>

### Primary

- Règlement grand-ducal du 24 novembre 2003 relatif au Comité de coopération entre les professionnels dans le domaine de la lutte contre la violence. *Mémorial A 2003. Journal Officiel du Grand-Duché de Luxembourg* 173: 3380. <http://www.legilux.public.lu/leg/a/archives/2003/1730912/1730912.pdf>
- Violence domestique. Loi du 8 Septembre 2003 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. Rapport de la Commission de l'Égalité des chances entre femmes et hommes et de la Promotion féminine. *Mémorial A 2000. Journal Officiel du Grand-Duché de Luxembourg* 148: 2981-2988. <http://www.legilux.public.lu/leg/a/archives/2003/1480310/1480310.pdf>
- Le gouvernement du Grand-Duché de Luxembourg. Ministère de la Promotion Féminin. 17 July 2003. *Communiqué. Le projet de loi sur la violence domestique adopté par la Chambre de députés.* [http://www.gouvernement.lu/salle\\_presse/communiques/2003/07/17violence/](http://www.gouvernement.lu/salle_presse/communiques/2003/07/17violence/) E-text.
- Chambre de députés. 2003. *Projet de loi 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. Rapport de la Commission de l'Égalité des chances entre femmes et hommes et de la Promotion féminine.* Luxembourg. 8 p. <http://www.chd.lu/archives/ArchivesPortlet?selectedDocNum=2&secondList=&action=document>
- Chambre de députés. 2001. *Débat de l'orientation sur la violence domestique. Luxembourg. Rapport de la commission de l'égalité des chances entre femmes et hommes et de la promotion féminin.* 66 p. [http://www.chd.lu/docs\\_st/pdf/4705rapp.pdf](http://www.chd.lu/docs_st/pdf/4705rapp.pdf)
- Le Gouvernement du Grand-Duché de Luxembourg. 1999. *Accord de coalition PCS / PDL de 1999.* [http://www.gouvernement.lu/gouvernement/programme/programme\\_99/accord\\_coalition\\_1999\\_fr.html#14](http://www.gouvernement.lu/gouvernement/programme/programme_99/accord_coalition_1999_fr.html#14) E-text.
- General websites :  
The Ministry of Equal Opportunities:  
[www.mega.public.lu](http://www.mega.public.lu), accessed in May, June and July 2007  
Luxembourg legislation:  
[www.legilux.public.lu](http://www.legilux.public.lu), accessed in May, June and July 2007  
Chamber of Deputies:  
[www.cdh.lu](http://www.cdh.lu), accessed in May, June and July 2007  
Links to documents of the Parliamentary process of the domestic violence law:  
[http://www.chd.lu/archives/ArchivesPortlet?lqs\\_fmid=J&lqs\\_dpid=4801](http://www.chd.lu/archives/ArchivesPortlet?lqs_fmid=J&lqs_dpid=4801), accessed in May, June and July 2007

### Secondary

- Stoff, Beate. 2006. *Abschlüssbericht: Evaluation der Veränderungen in Luxemburg seit Einführung des Gesetzes gegen häusliche Gewalt und Einrichtung des Services*

*d'assistance aux victimes de violence domestique* [Endnote: Evaluation of the changes in Luxembourg since the passing of the law against domestic violence and the founding of relief organizations for victims of domestic violence]. Osburg: Büro Plan B.

[http://www.mega.public.lu/actualites/actu\\_min/2006/08/violence\\_domestique/Rapport\\_2006\\_Beate\\_Stoff.pdf](http://www.mega.public.lu/actualites/actu_min/2006/08/violence_domestique/Rapport_2006_Beate_Stoff.pdf)

Grand-ducal regulation on the Committee of cooperation between professionals in the domain of the battle against violence. (Règlement grand-ducal du 24 novembre 2003 sur le comité de coopération entre les professionnels dans le domaine de la lutte contre la violence.) 24 November 2003.

<http://www.legilux.public.lu/leg/a/archives/2003/1730912/1730912.pdf>

*The Ministry of Equal Opportunities organizes an international colloquium on domestic violence: 'La violence domestique – un nouveau défi'.*

*The Ministry of Equal Opportunities continued its 1999 campaign, 'Fini les compromis. Contre la violence à l'égard des femmes et des filles', on television and in theatres. A commercial on the eviction of the offender of domestic violence was released.*

*In the Luxembourg finance sector, 'guidelines for conduct relating to sexual harassment' are introduced.*

## **2004**

Ministerial order of 13 February 2004, the Ministry for Equal Opportunities granted official recognition to the non-profit Luxembourg Movement for Family Planning and Sex Education for its "Outreach" ("Riicht eraus") consultation and assistance centre for violent offenders. The Ministry will pay the costs of operating the centre. The objectives of the centre are both short term, to protect the victims of violence, and longer term, to reduce and ultimately eliminate violence.

## **2006**

*Evaluation commissioned by Ministry of Equal Opportunities of law on domestic violence of 8 September 2003 by Beate Stoff.*

[http://www.mega.public.lu/actualites/actu\\_min/2006/08/violence\\_domestique/Rapport\\_2006\\_Beate\\_Stoff.pdf](http://www.mega.public.lu/actualites/actu_min/2006/08/violence_domestique/Rapport_2006_Beate_Stoff.pdf)

*Campaign of the Council of Europe on fighting violence against women, comprising domestic violence. Information page on national actions by your country in order to fight violence against women. Luxembourg. (Campagne du Conseil de l'Europe pour combattre la violence à l'égard des femmes, y compris la violence domestique. Page d'information relative aux actions nationales menées par votre pays pour combattre la violence à l'égard des femmes. Luxembourg.) 2006.*

[http://www.coe.int/t/dg2/equality/domesticviolencecampaign/countryinformationpages/luxembourg/Completedquestionnaire\\_fr.pdf](http://www.coe.int/t/dg2/equality/domesticviolencecampaign/countryinformationpages/luxembourg/Completedquestionnaire_fr.pdf)

### 3) Conclusion

Looking more deeply into Luxembourg's history of gender equality policies and structures in general and the issues non-employment, intimate citizenship and gender based violence more specifically has brought about an interesting way of interpreting Luxembourg's internal relations between gender policy makers, government, social partners and civil society with its variety of organizations and the country's connections with the international world, i.e. the European Union and the United Nations. This final chapter aims to conclude on several of the issues that have become clear here.

Many topics have been addressed in debates, bills and finally legislation. Laws often have to be revised and modified. But what is the relative importance of all those debates and laws? Which issues, in general and within the borders of the subissues addressed here, have been of major importance for Luxembourg? During the policy making process and the debates on these themes, significant landmarks can be distinguished. Concerning these milestones, it is interesting to wonder whether they mark changes in the government's point of view and consequently Luxembourg policymaking or rather point at the influence and lobbying of civil society or directives imposed by the European Union.

#### *Relative importance of topics in the subissue and in generic gender+ equality policies*

The relative importance of topics in the general gender+ equality policies becomes clear simply by analysing the Ministry of Equal Opportunities' website. Gender mainstreaming has been introduced in Luxembourg and gender gradually has to become an area of interest for the whole of Luxembourg government and all areas of policymaking. Yet at the same time the Ministry dealing specifically with gender equality policies has selected several topics which are of great importance, namely *education et formation* (education and training), *travail et emploi* (labour and employment) and *lutte contre la violence* (battle against violence) ([http://www.mega.public.lu/actions\\_projets/index.html](http://www.mega.public.lu/actions_projets/index.html), accessed on 18 July 2007).

Those domains of interest partially run parallel to two of the three issues addressed in this report: non-employment and gender based violence. At the same time, they imply some rather interesting conclusions on the issue intimate citizenship. In conversations with people from organizations defending (one of the) inequality groups, it often became clear that the Luxembourg government – which has had the Christian Democrats of the CSV among its majority parties between 1995 and now –

is considered conservative. The issues which figure under intimate citizenship, of which most are also included in the list of ethical debates, clearly indicate that the three Luxembourg governments between 1995 and 2007 have been of a conservative nature. The country has introduced and ameliorated the legal effects of certain partnerships, which aim – among other couples – at homosexuals. However, homosexuals, lesbians and bisexuals are barely named. Even though public opinion is rather in favour of same-sex marriages, so far Luxembourg has had no parliamentary debates on same-sex marriages or adoption. Comparably, legalizing abortion for all women is a debate in its infancy.

As for non-employment, the National Action Plan (NAP) on employment of February 1999 is a landmark in Luxembourg legislation since several important laws were adopted;

including one on the creation of equal parental leave for both parents. This law was controversial and was amended several times before it was voted, but now has to be considered as progressive. In 2006 the law was modified. In general, improving equality between men and women in employment and improving the reconciliation of work and family has been an important area between 1995 and 2007, with several laws on various themes. Significantly, most of the laws on non-employment in Luxembourg were the result of EU Directives, such as the one on parental leave (96/34/EC). In November 2006, two of the major EU Directives on (gender) equality were transposed into national law: the Racial Equality Directive and the Employment Directive.

In relation to gender based violence, several campaigns were held between 1995 and 1999. In 1999 the campaign *Fini les compromis* was the starting point of new debates on violence against women in Luxembourg. In 2000, an important act on sexual harassment at work was passed. In 2003, Luxembourg adopted a law on domestic violence which states that the offenders of such a crime have to be evicted from their home. These laws are monitored by both government and (women's) organizations working in the field.

#### *The major changes in general and for the three issues*

One major change in Luxembourg gender equality policy came about in 1995, with the creation of a ministerial post on Equal Opportunities. In the beginning the name was *Ministère de la Promotion Féminine*, which pointed to the importance of the advancement of women and their equality in relation to men. In 2004 a new government was selected and the name of the Ministry changed and henceforth became *Ministère de l'Égalité des Chances*. Even though the name now denoted 'equal opportunities' without any specific reference, women remained the target group. Therefore, as regards content, nothing really changed.

The CSV has been a majority party from 1995 until now and Marie-Josée Jacobs of the Christian-Democratic CSV has been Minister for Equal Opportunities since the creation of the ministerial post twelve years ago. This can be seen as a reason why no major changes have occurred in general since the landmark which was the instalment of this ministry. Moreover, since Minister Jacobs has been Minister for other inequalities as well throughout the years, all policy on inequality rests with her and her political party.

Throughout the years, several laws on (gender) equality related issues were passed (see 'Relative importance...' section). A milestone however, was the introduction of parity in the Constitution. This came about very recently, in March 2006.

#### *The role of civil society and other political actors*

Luxembourg civil society and its (non profit) organizations are especially strong when it comes to defending human rights. The women's organizations for example have gathered in the umbrella organization *Conseil National des Femmes du Luxembourg* or CNFL. Joining forces in such an organization appears beneficial, since it enables small organizations to stand strongly together. The CNFL is often consulted by government on issues regarding equal opportunities. Moreover, the umbrella organization is a member of the *Comité du Travail Féminin*, a committee which advises during parliamentary debates. Yet at the same

time the CNFL remains an independent pressure group, lobbying for their demands and expressing uncertainty on some matters such as the change of the Ministry of Equal Opportunities' name in 2004.

There are many organizations which help victims of domestic violence. *Femmes en Détresse*, for example, was consulted during the Parliamentary debates on the domestic violence law of 2003. Ever since the law was adopted, the relief organizations have remained of importance to the Luxembourg government, since they are represented in the *Comité de coopération entre les professionnels dans la domaine de la lutte contre la violence*.

Next to the women's organizations, Luxembourg has an association which acts in the interest of men, boys and fathers. The *Association des Hommes du Luxembourg* or AHL is consulted by government on certain occasions and gives advice on matters relating to gender based violence, marriage, divorce and children's rights. Unlike the CNFL, the AHL does not belong to any committees and therefore is not directly involved in the decision-making and legal process.

Organizations such as Rosa Lëtzebuerg and Cigale defend the rights of LGBTs in Luxembourg. The organizations stand strong, but have to compete against a conservative government which is not ready for advancing and implementing LGBT rights. Same-sex marriages and adoption are themes which cause strong reactions in favour and against from both civil society, such as the organizations mentioned before, and political parties. The majority party CSV is against same-sex marriages whereas its coalition parties (now the socialist LSAP, before the liberal party DP) have always been in favour.

#### *The impact of the EU and other international bodies*

Luxembourg is one of the oldest members of the European Union, but it is reluctant in transposing directives and has a complex relationship to the EU. The country belongs to what Oliver Treib and Gerda Falkner have called the 'world of neglected transposition'. Often, as was the case with the Racial Equality and the Employment Equality Directive, Luxembourg does not transpose directives in time. In the case of these two directives, infringement procedures were started and the country was taken to court. Finally, the directives were translated into national law. Whereas this relationship with the EU is complex, Luxembourg attaches great interest to the United Nations, Beijing and CEDAW.

## List of abbreviations

### *General terminology*

QUING	Quality in gender+ equal opportunities policies
FGM	Female Genital Mutilation
IVG	Interruption Volontaire de Grossesse (abortion)
LGBT	Lesbian Gay Bisexual Transgender
SAV	Service d'assistance aux victimes

### *Civil society : Luxembourg organizations*

AHL	Association des Hommes du Luxembourg
Cigale	Centre d'Information Gay et Lesbienne
CNFL	Conseil National des Femmes du Luxembourg
ILGA	International Lesbian and Gay Association
LIDIA	Liaison, Discussion, Action

### *Political parties*

CSV	Chrëschtlech Sozial Volkspartei
Déi Gréng	Luxembourger green political party
Déi Lenk	Luxembourger left political party
DP	Demokratesch Partei
LSAP	Lëtzebuurger Sozialistesche Aarbechterpartei
NAP	National Action Plan
PAC	Pacte Civil de Solidarité

### *General actors*

ABBL	Association des Banques et Banquiers du Luxembourg
ASTF	Association pour la santé au travail du secteur financier
CNPF	Caisse Nationale des Prestations Familiales
ILRES	Luxembourg Institute of Social and Market Research
LCGB	Lëtzebuurger Chrëschtleche Gewerkschafts-Bond
OGB-L	Confédération Générale du Travail de Luxembourg

### *International actors*

CEDAW	Convention on the Elimination of All Forms of Discrimination against Women
EU	European Union
UN	United Nations

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