

## **Delegation from the Grand Duchy of Luxembourg Position Paper for the Human Rights Council**

The topics before the Human Rights Council (HRC) are Combating Racism, Racial Discrimination, Xenophobia and Related Intolerance and Business and Human Rights. The Grand Duchy of Luxembourg (Luxembourg), as one of the first signatories of the Universal Declaration of Human Rights (UDHR), remains actively committed to ideals declared and looks forward to finding new solutions in cooperation with the international community.

### **I. Combating Racism, Racial Discrimination, Xenophobia and Related Intolerance**

The elimination of Racism, Racial Discrimination, Xenophobia and Related Intolerance is one of the key objectives set out by Article 2 of the UDHR and a fundamental human right. In recent time, the advent of online communication has posed a new challenge to this goal, making the spread of racism, racist remarks as well as other discriminatory statements easier than ever before. The continued globalization, having led to over 281 million migrants living outside of their state of origin, has also exposed them to greater threats of xenophobia and racially motivated violence. This has only increased with the emergence of the COVID-19 pandemic, which has led to what United Nations (UN) Secretary-General António Guterres has called “a tsunami of hate and xenophobia, scapegoating and scare-mongering” towards migrants in their host countries.

The International Community has in the past already built the foundation laid by the UDHR in 1948. The General Assembly (GA) adopted the *International Covenant on Civil and Political Rights* in 1966, expanding the rights of minorities and reaffirming the right to equal treatment. Luxembourg has ratified the Covenant and particularly endorsed the work of the Human Rights Committee established therein, thus also having ratified the *Optional Protocol to International Covenant on Civil and Political Rights*, giving individuals the possibility to report cases of unequal treatment directly to the Human Rights Committee. *The International Convention on the Elimination of All Forms of Racial Discrimination* (ICERD), adopted by the GA in 1965, has proven to be another large step towards combating racism, racial discrimination, and xenophobia, condemning racial discrimination, and requesting state parties to enact legislation punishing acts of racism and discrimination as well as urging states to consider actions promoting those before disadvantaged by the effects of racism and racial discrimination.

The Grand Duchy of Luxembourg has especially been concerned with the increasing use of the internet as a platform to spread ideas of racism and racial discrimination into the public and direct these towards those vulnerable. To combat this, Luxembourg introduced the “BEE Secure” public initiative, distributing to the public information on how to deal with verbal abuse, particularly hate speech, and providing an easy way of reporting hate speech on the Internet to the prosecution. As early as 2006, Luxembourg established the Centre for Equal Treatment (CET), which is tasked with analyzing and monitoring equal treatment across society as well as creating new policy to further advance the cause of equality and equal treatment.

Luxembourg remains committed to achieving the elimination of racism, racial discrimination, xenophobia, and related intolerance. But especially the internet has thus far proven to be a difficult space for law enforcement to actively engage in and prosecute alleged offenders. To that end, Luxembourg proposes that the HRC request the Special rapporteur on contemporary forms of racism, racial discrimination, xenophobia, and related intolerance to collect and analyze data on existing ways in which law enforcement officials deal with prosecuting hate speech on the Internet. Furthermore, the Special Rapporteur shall be requested to provide guidelines and recommendations for improvements on legislation to be adopted by individual member states, leading to a more comparable landscape in the realm of the Internet.

The recent COVID-19 pandemic has exacerbated both racially motivated abuse towards migrants and antisemitic actions against those of Jewish faith. Luxembourg urges its fellow member states to adhere to their responsibilities set by the UDHR and the ICERD to protect every human being from being a victim of racism or discrimination of any kind. Positive results have been achieved in Luxembourg by instituting a National Action Plan against Racial Discrimination from 2010-2014 with an all-out approach at its core, combining efforts of actively debunking false claims in schools and in society, prosecuting hate speech and the spread of racial ideals online as well as in everyday life and encouraging private parties and society to be more inclusive. Luxembourg therefore encourages its fellow member states to enact National Action Plans (NAPs) to create a unified approach to the fight against racism and racial

discrimination and recommends the Office of the High Commissioner on Human Rights (OHCHR) to provide assistance and expertise in the creation of these NAPs.

## II. Business and Human Rights

The actions of Businesses and corporations are paramount in the everyday life of any human being, be it as an employer or as the primary provider of goods and services. This puts businesses in a unique position in ensuring the human rights proclaimed by the UDHR in 1948 for all human beings affected by their actions, but also often leaves the fulfillment of these rights at the mercy of these corporations. According to a 2017 report by the International Labor Organization (ILO), more than 24 million people endure a condition of forced labor, with women and children especially endangered as the spread of COVID-19 only deepens existing violations of human rights. The Grand Duchy of Luxembourg also remains particularly engaged in the discussions around taking transnational corporations (TNCs) into responsibility for securing the compliance with human rights on every step of production and distribution of goods and services. And while significant steps towards equality between men and women in the business world have been made in recent years, Luxembourg still believes that more actions will have to be taken to fully achieve the ideal set out in Article 23 of the UDHR.

Luxembourg has actively supported the International Community in setting up a framework to solve these issues. The *Convention on the Elimination of All Forms of Discrimination against Women (CEDAW)*, adopted by the GA in 1979, obliges Member States in Article 11 take up measures to ensure the equal treatment of women in the workforce concerning every aspect of employment, including application, remuneration, benefits, and healthcare. Luxembourg has been pleased to work with the *Committee on the Elimination of Discrimination against Women*, established by the CEDAW, and has adopted its recommendations with vigor, most notably amending the Labor Code in 2016 to explicitly grant the right to equal pay for equal work to every woman and threatening businesses that refuse to comply with these provisions with substantial fines.

Concerning the adherence of TNCs to human rights, the GA adopted the *International Covenant on Economic, Cultural and Social Rights (ICECSR)* (1966), reaffirming and expanding workers' rights to equal pay, just and favorable working conditions. In 2011, the HRC unanimously endorsed the *United Nations Guiding Principles on Business and Human Rights (UNGPs)* by resolution 17/4, creating a comprehensive foundation for member states to act upon by specifying the responsibilities of business founded in a due diligence adherence to human rights and calling upon member states to ensure the compliance with human rights through legislation, enforcement, and encouragement. Luxembourg has continuously been at the forefront in adopting these Guiding Principles, with Foreign Minister Jean Asselborn reaffirming in 2018 that adopting the UNGPs are "an important contribution in living up to our international commitments". In line with this commitment Luxembourg adopted a NAP in 2018 for the implementation of UNGPs, outlining a systematic approach to the issues at hand and coordinating actively with all relevant stakeholders, including businesses, civil organizations, and NGOs. This NAP has included an active awareness campaign to promote the issue of human rights in business to a wider audience but has also sponsored a vivid discussion including all stakeholders concerning immediate matters at hand.

Luxembourg remains committed to furthering the cause of gender equality both nationally and internationally, with Prime Minister Xavier Bettel already reaffirming in 2015 that Luxembourg "will make its contribution to the consolidation of equality". Therefore, Luxembourg encourages its fellow member states institute independent ministries or intergovernmental commissions for gender equality, recognizing the success of the Ministry of Equality between Men and Women (MEGA), established in 1995 in Luxembourg, tasked with gathering information on the current situation of equality and formulating policies and public awareness initiatives and combining these into comprehensive NAPs. Since their adoption by the HRC in 2011, Luxembourg has been strongly engaged in efforts to implement the UNGPs on both the national as well as the international level. Luxembourg therefore on one hand yet again encourages the member states to implement NAPs specifically with the goal to foster the application of the UNGPs within businesses and to gather relevant data on the possibility of enacting national legislation, enshrining the use of due diligence in international transaction, as the Grand Duchy of Luxembourg is currently considering. On the other hand, Luxembourg also favors and strongly supports adoption of unified international legislation, as for example proposed by the European Commission in 2020. As TNCs act beyond the borders of any single jurisdiction, Luxembourg is convinced that a unified multinational approach can significantly improve the state of human rights in business affairs and that comparable practices and standards will prove vital to fulfilling these goals.