

October 26, 1993

30th Anniversary of the Vote to Ratify the Convention on the Rights of the Child

When does Luxembourg fully comply with its international obligations?

October 26, 2023, marks the thirtieth anniversary of the House of Representatives' approval of the ratification of the Convention on the Rights of the Child (commonly referred to as the "Convention on the Rights of the Child," CRC), adopted by the United Nations General Assembly on November 20, 1989.

This is the most important international convention on the rights of the child, which sets out all the guarantees that must be granted to children and adolescents, and which has established the principle of the "best interest of child" as the cornerstone of the convention.

The OKAJU recalls that since the entry into force of the amended Constitution on July 1, 2023, the rights of the child are also among the fundamental rights to be protected by the Luxembourg State.

However, despite the rapid ratification of the international instruments and their recent incorporation into Luxembourg's Basic Law, it must be noted that Luxembourg falls short of the commitments it has made, both in terms of legislation and practical implementation.

Moreover, the Luxembourg legislator has still not lifted the reservations expressed at the time of ratification of the UN Convention on the Rights of the Child, which prevent the full effectiveness of the guarantees contained in the Convention. These reservations relate to Article 2 (non-discrimination), Article 6 (right to life, survival and development), Article 7 (right to identity) and Article 15 (right to form or join associations) and concern, among other things, the modalities of anonymous birth and the current lack of access to origins, the unequal legal treatment of children from married and unmarried couples, the restriction of children's freedom of association and access to voluntary abortion.

The OKAJU recommends the newly elected parliament and the future government to finally withdraw all reservations as well as to bring the national legislation in line with the requirements of the Convention. 30 years after the ratification, it is time to bring the Luxembourgish (civil) law in line with the social reality of the country and the younger generations as well as to comply with the international requirements.

Similarly, the OKAJU recalls that neither the current legislation on the protection of minors (dating from 1992) nor the infrastructural framework for custodial measures against minors meet the requirements of the Convention, as set out in the General Comments (10, 24) and the periodic reports of the United Nations Committee on the Rights of the Child.

It encourages the next administration to expedite the formulation of the necessary amendments to implement the reform package, consisting of Bill No. 7991 on

to adopt a juvenile criminal procedure, No. 7992 on the rights of crime victims and witnesses, and No. 7994 on child protection and educational assistance, as well as the construction of a juvenile detention center to stop the placement of juveniles currently still taking place in the adult correctional center in Schrassig.

Children first! Procedures and structures second!

Above all, this reform should strengthen the rights of children who are victims or witnesses of any form of violence or abuse, and guarantee access to the rights and assistance of a child advocate in any legal proceedings and in any contact with the police and judicial authorities. The care pathway for children and adolescents must correspond to a truly integrated, multisectoral and multidisciplinary chain of services, with the child at the center. The perspective and opinions and views ("child will") of child and adolescent victims must be given greater consideration.

Respect for children's rights is realized in many different areas, such as equal opportunities in education, inclusion of children with special needs, integration of children with refugee and migration experience, access to health care, especially pediatric care, mental health of children and adolescents, and combating child poverty. All too often, legal-administrative procedures and formalisms present hurdles that are difficult to overcome and prevent children and adolescents from accessing their rights.

Finally, OKAJU can only encourage policy makers once again to provide for a relative status for unaccompanied minors, whether or not they have applied for asylum, in order to ensure a dignified reception and accompaniment of the rights granted to them by the Convention.

In times of wars, conflicts and global crises, all of which are devastating to the lives, survival and well-being of far too many children around the world, it must also be remembered that international commitment to the rights of the child at the global level also stems from the obligations of the Convention. Therefore, the prioritization of children's rights in current foreign policy must continue in the coming years and be strengthened at the level of development cooperation policy.

Although on this day, which marks the thirtieth anniversary of the ratification of the Convention on the Rights of the Child, the OKAJU congratulates the political decision-makers on the fundamental commitments made, it can only emphasize that their actual implementation in all areas of life is essential if children and young people are to actually benefit from the proclaimed guarantees.

Luxembourg, October 26, 2023

For information :

- *Loi du 20 décembre 1993 portant 1) approbation de la Convention relative aux droits de l'enfant, adoptée par l'Assemblée générale des Nations Unies le 20 novembre 1989 2) modification de certaines dispositions du code civil : <https://legilux.public.lu/eli/etat/leg/loi/1993/12/20/n2/jo>*
- *Dossier parlementaire 3608 : <https://wdocs-pub.chd.lu/docs/archive/26/39/3086777.pdf> (Rapporteur: Lydie Err)*
- *United Nations Committee on the Rights of the Child : <https://www.ohchr.org/fr/treaty-bodies/crc>*