

Legal environment and space of civil society organisations in supporting fundamental rights

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1 Five most significant civic space developments in 2020

In Luxembourg, there are two significant umbrella organisations, CLAE (*'Comité de Liaison des Associations d'Etrangers'* or 'Liaison Committee of Foreigners' Associations')¹ and the Cercle (*'Cercle de Coopération des ONGDs du Luxembourg'* or 'Luxembourg's Development NGOs Cooperation Circle')² supporting the work of local NGOs (i.e. 'non-profit associations' or '*associations sans but lucrative*' or 'ASBL'). CLAE and the Cercle together represent 258 associations with their objectives predominantly revolving around immigration and international development.³ Non-profit associations that work in the field of development cooperation and humanitarian action have special importance in Luxembourg.⁴ These associations can be recognised as 'development NGOs' and could be authorised to collaborate with the government in the development cooperation field.⁵

In the NGO scene, 2020 was significantly marked by the COVID-19 pandemic which had a profound effect on the everyday life of these associations. Among others, the two umbrella organisations have carried out surveys to better assess the difficulties that these organisations have been facing since the outbreak of the pandemic. The results of these surveys triggered a press conference in July and they were also raised during a parliamentary meeting in October.

1.1 Legislative changes in the context of COVID-19 (March, June and September 2020)

Already in March 2020, when the COVID-19 pandemic had its first outburst in Luxembourg and the government declared state of emergency, the grand-ducal regulation of 20 March 2020⁶ was adopted in order to provide immediate solution to the day-to-day work of companies and other legal persons. The new legislation provided a mechanism that enabled legal persons, including non-profit organisations, to hold their meetings (in particular, their assemblies and board of directors' meetings) without having to be physically present, while guaranteeing effective participation and the exercise of rights through the use of remote voting, written

¹ For more information, see the [website of CLAE](#), last accessed on 15 January 2021.

² For more information, see the [website of the Cercle](#), last accessed on 15 January 2021.

³ Press release of the Cercle and CLAE (2020), [The impact of the health crisis on the associative sector of Luxembourg and the need to support it](#) (*L'impact de la crise sanitaire sur le secteur associatif luxembourgeois et la nécessité de le soutenir*), 13 July 2020.

⁴ Luxembourgish government (2020), [How to get involved in development cooperation?](#), last accessed on 15 January 2021.

⁵ Luxembourgish government (2020), [How to get involved in development cooperation?](#), last accessed on 15 January 2021.

⁶ Luxembourg, [grand-ducal regulation of 20 March 2020 introducing measures concerning the holding of meetings in companies and other legal persons](#) (*règlement grand-ducal du 20 mars 2020 portant introduction de mesures concernant la tenue de réunions dans les sociétés et dans les autres personnes morales*).

circular resolutions, videoconferencing or any other means of telecommunication.⁷ Upon the end of the state of emergency, the same legal mechanism was adopted by the act of 20 June 2020⁸ and upon the expiry of that latter legislation on 30 September 2020, the remote meeting for NGOs was still made available by the act of 23 September 2020⁹, which remains in force until 30 June 2021.

1.2 Difficulties of civil society work in the context of COVID-19 – Survey and actions of the Cercle (April 2020)

The Cercle has launched a survey in April 2020 to obtain a more precise assessment about the effects of the COVID-19 measures on the work of the development NGOs and on their local partners.¹⁰ An *ad hoc* working group was put together as well to analyse the impacts of the crisis on the civic space and to find solutions to the problems encountered by the various actors. The results of the survey have shown that as of April 2020 the impacts have already influenced the work of development NGOs. Most of the development NGOs' staff went on teleworking, whose transition took place quite naturally insofar as development NGOs are used to supporting remote projects with their partners. However, fundraising campaigns had to be cancelled, as well as advocacy and awareness activities.

Furthermore, development NGOs working with local partners in developing countries encounter difficulties on a different level. The local partner associations in developing countries that are supported by Luxembourg Development NGOs had to adapt their actions to the crisis immediately (i.e. health programs were re-oriented to help populations to protect themselves from the virus). These partner associations have been facing difficulties not only because of the direct effects of the health crisis (i.e. travel bans, cancellation of filed missions, etc.), but also due to the consequences of the socio-economic crisis linked to the pandemic. To raise attention to these problems, Cercle, together with Concorde Europe, sent to the Minister of Cooperation and the Minister of Foreign Affairs a letter, which sums up the concerns of European civil society organisations and proposes a set of recommendations ahead of the video conference of Foreign Ministers scheduled for 8 April 2020.¹¹ The keyword of this

⁷ Luxembourgish government (2020), [New provisions for the holding of general assemblies and meetings of companies and legal persons such as public establishments and non-profit organizations](#) (*Nouvelles dispositions pour la tenue des assemblées générales et réunions des sociétés et personnes morales tels les établissements publics et ASBL*), 20 March 2020.

⁸ Luxembourg, [act of 20 June 2020 extending the measures concerning the holding of meetings in companies and other legal persons](#) (*loi du 20 juin 2020 portant prorogation des mesures concernant la tenue de réunions dans les sociétés et dans les autres personnes morales*).

⁹ Luxembourg, [act of 23 September 2020 on measures concerning the holding of meetings in companies and other legal persons](#) (*loi du 23 septembre 2020 portant des mesures concernant la tenue de réunions dans les sociétés et dans les autres personnes morales*).

¹⁰ The Cercle (2020), [The COVID-19 crisis, a major issue of solidarity](#) (*La crise COVID-19, un grand enjeu de solidarité*), 9 April 2020.

¹¹ The Cercle (2020), [Open letter to the Minister for Development Cooperation and Humanitarian Affairs](#), 6 April 2020.

letter is solidarity, which, according to Cercle, must guide the entirety of actions of the European Union in development cooperation and the humanitarian field.

1.3 Difficulties of civil society work in the context of COVID-19 – Survey of CLAE (May 2020) and press conference on the impact of the health crisis on the non-profit sector and the need to support it (July 2020)

The survey of CLAE was carried out in May 2020 with the participation of 125 Luxembourgish civil society actors.¹² According to the results of the survey, 90% of respondents believe that the health crisis has had an impact on their association. Due to the lockdown, many of them had to cancel events, other planned activities or even a project in progress. The interruption of associative activity is accompanied by consequences at the financial level, since more than 55% of the respondents said that they had difficulties, in particular, to pay the association's fixed costs (rents, operating costs or even wage costs not covered by partial unemployment). It appears that the significant drop in revenue is, above all, linked to the lack of activity, which for many associations amounts to a complete lack of inflow of money. Some associations are also seeing a decrease in the number of donations while sponsorship is becoming more and more difficult. Some associations fear that the suspension of their activities will have repercussions in terms of public funding, especially since the relationship with the various ministries has become more difficult. Almost 25% of the respondents believe that these difficulties call into question the very existence of their association. The survey revealed that a large majority of associations expected some exceptional financial assistance from the Luxembourgish government to meet the fixed costs of rental fees, salaries and operating costs.

In a media appearance, CLAE's director emphasised that mid-sized associations were experiencing the greatest difficulties, thus CLAE considered necessary to put in place exceptional support from the state, not only to alleviate financial uncertainties but also to send a sign of solidarity and recognition of civil society values.¹³ The issue was raised before the Minister of Family and Integration in a parliamentary question in May 2020.¹⁴ In her reply, the Minister emphasised that the Ministry would analyse the effects of the crisis on a case-by-case basis, together with the associations

¹² CLAE (2020), [Investigation into the associative difficulties linked to the Covid-19 pandemic in Luxembourg](#) (*Enquête sur les difficultés associatives liées à la pandémie du Covid-19 au Luxembourg*), May 2020.

¹³ Le Quotidien (2020), [CLAE calls for "the rapid establishment of a specific budget line dedicated to associations"](#) (*Le CLAE demande «la mise en place rapide d'une ligne budgétaire spécifique dédiée aux associations»*), 26 June 2020.

¹⁴ Galles, P. (member of parliament) (2020), [Question N°2299 from Mr Paul Galles regarding the impact of Covid-19 on Luxembourg associations](#) (*Question N°2299 de Monsieur Paul Galles concernant Impact de Covid-19 sur les associations luxembourgeoises*), Luxembourgish parliament, 29 May 2020.

benefiting from a collaboration agreement or a subsidy and, if necessary, would offer financial aid to alleviate the difficulties of the given association.¹⁵

On 13 July 2020, CLAE and the Cercle, with the support of the Agency *Du Bénévolat*¹⁶, held a joint press conference to alert on the associative difficulties linked to the health crisis.¹⁷ They presented the results of the two surveys, which made it possible to better understand the impacts of the pandemic on the non-profit sector. The relevant actors then communicated their recommendations, among others, (i) to discard budget cuts, especially in times of crisis; (ii) to allocate a specific budget line to help associations in difficulty, (iii) to recognise the importance of the associative sector and the voluntary commitments, etc.¹⁸

1.4 Meeting of the Cercle with the Committee on Foreign and European Affairs, Cooperation, Immigration and Asylum (October 2020)

On 19 October 2020, the Foreign Affairs Committee hosted the Cercle to discuss the challenges that the development NGOs in Luxembourg and their partners in developing countries have been facing due to the COVID-19 pandemic¹⁹. NGOs working in the area of development assistance (e.g. SOS Faim, Action Solidarité Tiers Monde) presented their statements.²⁰ As a key message, the associations emphasised that Luxembourg must clearly reaffirm its consequent commitment to international solidarity and to the 2030 Sustainable Development Agenda. During his statement on development cooperation and humanitarian action policy, the Minister

¹⁵ Minister of Family and Integration (2020), [Response from the Minister of Family and Integration to question N°2299 from Mr Paul Galles concerning the Impact of Covid-19 on Luxembourg associations](#) (*Réponse de la Ministre de la Famille et de l'Intégration à question N°2299 de Monsieur Paul Galles concernant Impact de Covid-19 sur les associations luxembourgeoises*), 29 June 2020.

¹⁶ For more information, see the [website of l'Agence de Bénévolat](#), last accessed on 28 January 2021.

¹⁷ Press release of the Cercle and CLAE (2020), [The impact of the health crisis on the associative sector of Luxembourg and the need to support it](#) (*L'impact de la crise sanitaire sur le secteur associatif luxembourgeois et la nécessité de le soutenir*), 13 July 2020.

¹⁸ The Cercle (2020), [The impact of the health crisis on the voluntary sector and the need to support it](#) (*L'impact de la crise sanitaire sur le secteur associatif et la nécessité de le soutenir*), 14 July 2020.

¹⁹ The Cercle (2020), [Meeting of the NGDO Circle with the Committee on Foreign and European Affairs, Cooperation, Immigration and Asylum](#) (*Réunion du Cercle des ONGD avec la Commission des affaires étrangères et européennes, de la Coopération, de l'Immigration et de l'Asile*), 19 October 2020.

²⁰ Ikuku, N. (2020), [The impact of the Covid-19 pandemic on development and international solidarity - NGOs, their partner organizations and populations](#) (*L'impact de la pandémie du Covid-19 sur le développement et la solidarité internationale - les ONGD, leurs organisations partenaires et les populations*), the Cercle, 19 October 2020; Weber, R. (2020), [The coronavirus crisis and its impact on food security](#) (*La crise du coronavirus et son impact sur la sécurité alimentaire*), SOS Faim, 19 October 2020; Lucas, M. (2020), [The Post COVID-19: Strengthening the Human Rights-Based Approach](#) (*L'après COVID-19 : renforcer l'approche fondée sur les droits humains*), ASTM, 19 October 2020; Dupret, X.-F. (2020), [A Global Debt Agreement: A Long-Term Response](#) (*Un Accord mondial sur la dette : une réponse sur le long terme*), the Cercle, 14 October 2020.

of Cooperation and Humanitarian Action reaffirmed Luxembourg's commitment to maintain official development assistance (ODA) at the level of 1% of the gross national income (GNI).

On the following day, on 20 October 2020 Members of Parliament adopted a motion asking the government to stay true to its previous goal of devoting 1% of the gross national income to ODA, and for this to be reflected in the state budget as well.²¹ At the same time, another motion calling on the government to maintain the amount of development aid at least at the same level as that of the past three years, was rejected by the MPs.²² This is essential for the Luxembourgish civil society organisations because Luxembourg channels a certain percentage of its ODA through NGOs and civil society actors.²³

1.5 Parliamentary question on costs relating to registering beneficial owners

Pursuant to the EU Directive 2015/849 and to the act of 13 January 2019²⁴, the Register of Beneficial Owners was established in Luxembourg with the aim of ensuring more transparency and to prevent money laundering and financing of illegal activities. All establishments, including NGOs, with their seat in Luxembourg had to declare certain information about their owner(s). To declare these information in the register, entities, including NGOs, had to make an online application to the Registry and pay an administrative fee of 15 Euros. Those who were unable or unwilling to do the procedure online, would have the opportunity, for a supplement of 20 euros, to make the declaration at a counter. On 25 August 2020, a parliamentary question was

²¹ Luxembourgish parliament (2020), [Luxembourg's cooperation policy](#) (*La politique de coopération luxembourgeoise*) and [the motion deposited by Lydia Mutsch](#) (*motion déposée par Lydia Mutsch*), 20 October 2020.

²² Luxembourgish parliament (2020), [Luxembourg's cooperation policy](#) (*La politique de coopération luxembourgeoise*), 20 October 2020.

²³ Luxembourgish government, [General Luxembourg Cooperation Strategy](#) (2018), (*Stratégie Générale de la Coopération Luxembourgeoise*), page 18).

²⁴ Luxembourg, [act of 13 January 2019 establishing a Register of beneficial owners and establishing \(1\) transposition of the provisions of article 30 of Directive \(EU\) 2015/849 of the European Parliament and of the Council of 20 May 2015 on the prevention of the use of the financial system for the purposes of money laundering or financing of the terrorism, amending Regulation \(EU\) No 648/2012 of the European Parliament and of the Council and repealing Directive 2005/60 / EC of the European Parliament and of the Council and Commission Directive 2006/70 / EC; \(2\) modification of the amended act of 19 December 2002 concerning the trade and company register as well as the accounting and annual accounts of companies](#) (*loi du 13 janvier 2019 instituant un Registre des bénéficiaires effectifs et portant (1) transposition des dispositions de l'article 30 de la directive (UE) 2015/849 du Parlement européen et du Conseil du 20 mai 2015 relative à la prévention de l'utilisation du système financier aux fins du blanchiment de capitaux ou du financement du terrorisme, modifiant le règlement (UE) n° 648/2012 du Parlement européen et du Conseil et abrogeant la directive 2005/60/CE du Parlement européen et du Conseil et la directive 2006/70/CE de la Commission ; (2) modification de la loi modifiée du 19 décembre 2002 concernant le registre de commerce et des sociétés ainsi que la comptabilité et les comptes annuels des entreprises*).

addressed to the responsible minister about why these administrative fees apply to an obligatory registration process.²⁵ The minister alleged that the payment obligation was in line with the EU directive and that between 1 March 2019 and 30 June 2020, registration generated 330,375 Euros. During the same period, 327 registrations were made at the counter, half of which concerned NGOs.²⁶

2 Examples of promising practice

2.1 Webinar about awareness raising among NGOs concerning the risks of abuse by terrorists and terrorist organisations (26 November 2020)

On 26 November 2020, the Ministry of Foreign and European Affairs held a webinar for NGOs about the risk of abuse by terrorists and terrorist organisations²⁷ (i.e. the risk of NGOs being used for the purpose of financing or, in any other way, supporting terrorist activities).²⁸ The webinar explained the different types of risks that could be present simultaneously (i.e. embezzlement, affiliation with a terrorist entity (knowingly or not), abuse of NGO programs, support of recruitment and fraudulent NGOs). The webinar also covered de-risking (i.e. to restrict or cease commercial relations with customers or categories of customers to avoid certain risks) and possible risk mitigation measures for NGOs.

2.2 Extraordinary measures to aid the operation of development NGOs

On the working group meeting between the Ministry of Foreign and European Affairs and the NGO representatives taken place on 8 May 2020, Cercle informed the Ministry representatives about the repercussions of COVID-19 on the daily work of development NGOs, based on a questionnaire sent to its members (see in chapter 1

²⁵ Clement, S. (member of parliament) (2020), [Question N°2720 from Mr. Sven Clement concerning costs related to registration in the Register of Beneficial Owners](#) (*Question N°2720 de Monsieur Sven Clement concernant Frais liés à l'inscription au Registre des bénéficiaires effectifs*), Luxembourgish parliament, 25 August 2020.

²⁶ Minister of Justice (2020), [Response from the Minister of Justice to question N°2720 from Mr. Sven Clement concerning costs related to registration in the Register of Beneficial Owners](#) (*Réponse de la Ministre de la Justice à question N°2720 de Monsieur Sven Clement concernant Frais liés à l'inscription au Registre des bénéficiaires effectifs*), 28 September 2020.

²⁷ Ministry of Justice (2020), [Raising awareness among NGOs of the risks of abuse by terrorists and terrorist organizations - Webinar of 26 November 2020](#) (*Sensibilisation des OBNL aux risques d'abus par des terroristes et organisations terroristes - Webinaire du 26 novembre 2020*), last accessed on 15 January 2021.

²⁸ Ministry of Justice (2020), [Raising the awareness of the associative sector to the risks of terrorist financing](#) (*Sensibilisation du secteur associatif aux risques de financement du terrorisme*).

section 2 above).²⁹ The Ministry notified the Circle that certain measures have already been put in place to help NGOs benefiting from development framework agreements or co-financing. Accordingly, the Ministry granted an extension of two months for submitting annual reports, as well as they offered to development NGOs some flexibility to re-organise their budget for activities that aim at responding to the effects of COVID-19. Lastly, the development NGOs who are not in a position to make budget reallocations that aim at responding to the effects of COVID-19, may submit a request for a budget increase to the relevant state authority. These requests for additional funding introduced by development NGOs would be examined on a case-by-case basis. However, they could only be granted in very exceptional cases.

2.3 Webinar by the Ministry of Culture about financial support for associations (26 November 2020)

CLAE organised an online information exchange on 26 November 2020 to discuss the funding policy of the Ministry of Culture vis-à-vis projects proposed by associations. During the online event, a government advisor from the Ministry of Culture presented the various grants for cultural projects offered by the Ministry and the eligibility criteria for obtaining a grant.³⁰

3 Any other developments

3.1 Protection of human rights defenders

In October 2020, a parliamentary question was addressed to the Minister of Cooperation and Humanitarian Action and to the Minister of Foreign and European Affairs on the situation of human rights defenders.³¹ The inquiry was triggered by international reports about the increasing danger and the different forms of violence and harassment that human rights defenders have to face every day in the course of their work in developing countries. The questions focused on human rights defenders working in projects supported by Luxembourg's Development Cooperation and on the possible actions of the government to protect these people. In their response, the ministers recognised the seriousness of the problem by explaining that several partner organisations of Luxembourg NGOs have been confronted with various forms

²⁹ Ministry of Foreign and European Affairs, Directorate of development cooperation (2020), [MAEE-NGO working group report, meeting of 8 May 2020](#) (*Compte-rendu de groupe de travail MAEE-ONG Réunion du 8 mai 2020*), 8 May 2020.

³⁰ CLAE (2020), [Ministry of Culture: what financial support for associations?](#) (*Ministère de la culture : quel soutien financier pour les associations?*), 26 November 2020.

³¹ Bernard, D. and Empain, S. (members of parliament) (2020), [Question N°2967 from Ms. Djuna Bernard and Ms. Stéphanie Empain regarding Human Rights Defenders](#) (*Question N°2967 de Madame Djuna Bernard et de Madame Stéphanie Empain concernant Défenseurs des droits humains*), Luxembourgish parliament, 8 October 2020.

of harassment or violence.³² Referring to the ministerial response, on 26 November 2020, a group of development NGOs published an open letter, calling for the protection of human rights defenders to be acknowledged in Luxembourg's development cooperation policy and for appropriate measures to be put in place to respond to it.³³ The signatories of the open letter emphasised that a support project for human rights defenders had already been mentioned in the National Action Plan for the Open Government Partnership adopted in 2019.³⁴ According to the National Action Plan, the cooperation should be enhanced between the relevant actors in order to provide specific support to human rights defenders (e.g. emergency financial support, legal support, digital security support, temporary reception of human rights defenders in Luxembourg having to leave their country of origin urgently). The signatories urge the state actors to start this project as quickly as possible and to actively involve the Luxembourg Cooperation.

³² Minister of Cooperation and Humanitarian Action and Minister of Foreign and European Affairs (2020), [Response from the Minister of Cooperation and Humanitarian Action and the Minister of Foreign and European Affairs to question N°2967 from Mrs. Djuna Bernard and Mrs. Stéphanie Empain concerning Human Rights Defenders](#) (*Réponse du Ministre de la Coopération et de l'Action humanitaire et du Ministre des Affaires étrangères et européennes à question N°2967 de Madame Djuna Bernard et de Madame Stéphanie Empain concernant Défenseurs des droits humains*), 6 November 2020.

³³ Human Rights Defenders (2020), [Open letter from development NGOs](#) (*Lettre ouverte d'ONG de développement*), 26 November 2020.

³⁴ Luxembourgish government (2019), [Partnership for Open Government - Luxembourg National Action Plan 2019-2021](#) (*Partenariat pour un Gouvernement Ouvert - Plan d'action national du Luxembourg 2019-2021*), July 2019.