



International  
Labour  
Office



THE STATE OF APPLICATION OF THE PROVISIONS  
FOR SOCIAL SECURITY OF THE INTERNATIONAL  
TREATIES ON SOCIAL RIGHTS RATIFIED BY

# Luxembourg

ILO  
TECHNICAL  
NOTE

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Chapter IV. Concluding observations of the supervisory bodies concerning provisions of the ratified international treaties on social rights and statements of other international bodies reviewing national economic and social policy

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The information and data contained in the Technical Note is taken from the Government reports, on-line databases of the National Statistical office, official web-sites of the government departments, MISSCEO, MISSOC, SSI, ILOSTAT and EUROSTAT.

**List of international abbreviations:**

CAS	Committee on the Application of Standards, International Labour Conference
CEACR	Committee of Experts on the Application of Conventions and Recommendations
CEDAW	Convention on the Elimination of All Forms of Discrimination against Women
CESCR	Committee on Economic, Social and Cultural Rights
COE	Council of Europe
CRC	Convention on the Rights of the Child
CRPD	Convention on the Rights of Persons with Disabilities
ECSR	European Committee of Social Rights
ECSS	European Code of Social Security
ESC	European Social Charter
EU	European Union
EUROSTAT	Statistical Office of the European Union
GC	Governmental Committee of the European Social Charter and European Code of Social Security
ICESCR	International Covenant on Economic, Social and Cultural Rights
ILS	International Labour Standards
IMF	International Monetary Fund
MISSEO	Mutual Information System on Social Protection of the Council of Europe
MISSOC	Mutual Information System on Social Protection
OECD	Organisation for Economic Co-operation and Development
SSI	Social Security Inquiry

*CHAPTER I. Adequacy of social security  
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## Country profile by Eurostat indicators, National indicators and ILO minimum standards

<b><u>Eurostat</u></b>	<b>EU-Avg 2013</b>	<b>2005</b>	<b>2012</b>	<b>2013</b>	<b>2014</b>
At-risk-of-poverty threshold (40%, single person)	€ 462.3	€ 946.5	€ 1092.7	€ 1110.0	€ 1144.0
At-risk-of-poverty threshold (50%, single person)	€ 577.8	€ 1183.2	€ 1365.8	€ 1387.5	€ 1430.0
At-risk-of-poverty rate - 50%, before social transfers	19.5%	16.7%	21.0%	23.2%	21.4%
At-risk-of-poverty rate - 50%, after social transfers	10.2%	7.3%	7.1%	8.4%	8.1%
At-risk-of-poverty rate for children under 18 y.o. - 50% thrd	12.4%	10.5%	10.2%	13.0%	12.0%
In-work poverty rate - 50% threshold	5.2%	4.6%	4.5%	5.5%	5.0%
At-risk-of-poverty rate for pensioners - 50% threshold	6.0%	2.6%	1.3%	1.4%	1.1%
Aggregate replacement ratio	55%	63%	79%	78%	85%
Severe material deprivation (% of total population)	9.6%	1.8%	1.3%	1.8%	1.4%
Persistent at-risk-of-poverty rate - 50% threshold	5.2%		2.2%	3.6%	3.6%
Social protection expenditure as % of GDP	25.0%	21.7%	23.3%	24.4%	
Gini coefficient before social transfers	36.1%	32.1%	35.3%	38.1%	35.5%
Gini coefficient after social transfers	30.5%	26.5%	28.0%	30.4%	28.7%

<b><u>National indicators</u></b>		
Minimum guaranteed income	€ 1348.2	2014, Ministry of Social Security of the Grand Duchy of Luxembourg
Minimum wage	€ 1921.0	2014, Ministry of Social Security of the Grand Duchy of Luxembourg
Minimum pension	€ 1718.9	2014, Ministry of Social Security of the Grand Duchy of Luxembourg
Average wage	€ 4662.8	2013, United Nations Economic Commission for Europe

### **Government Report under the ECSS submitted in 2015**

Standard benefits amounts to be provided in the detailed report 2016.

### **The Office refers to the Government Report under the ECSS submitted in 2014 :**

Reference wage of skilled worker	<u>Article 65-6b</u> : International Standard Industrial Classification of All Economic Activities, Rev.4, sectors from C to K	€ 4047.0	2010
Standard old-age pension	<u>Skilled worker</u>	€ 2553.7	2010
Replacement rate Man with wife of pensionable age	The family allowance of € 440.7 is taken into account for the replacement rate calculation	66.7%	2010

Fig. 1. Income and poverty- single person, 2013

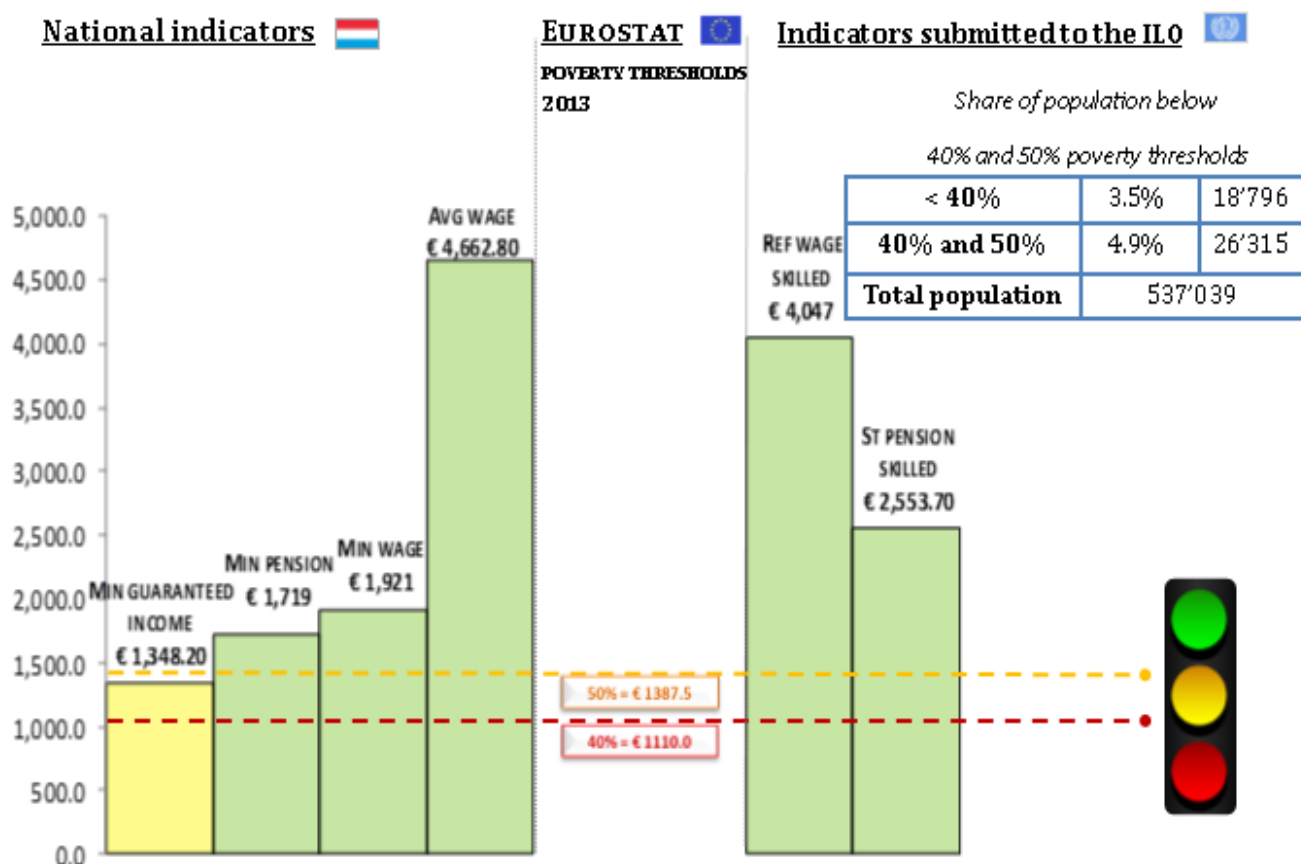
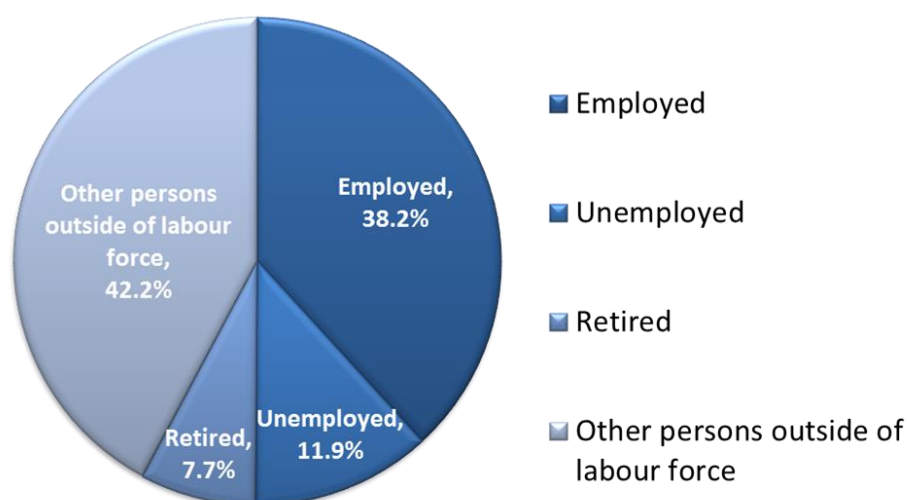
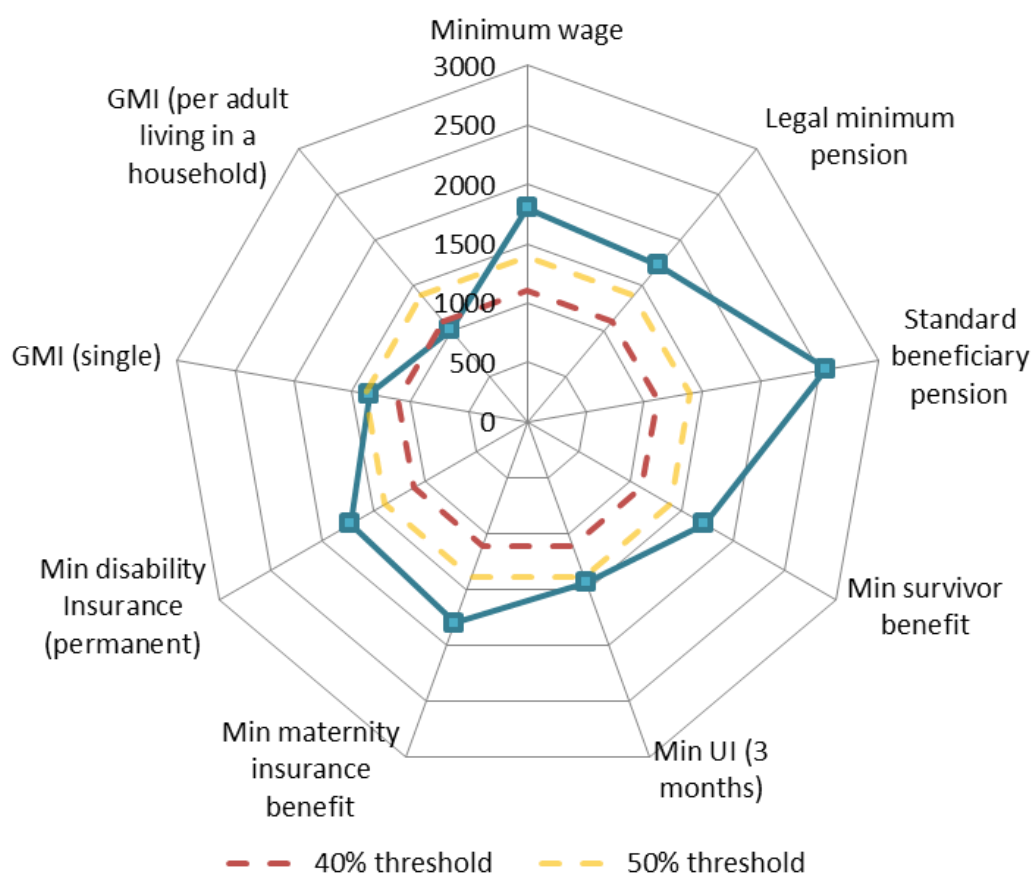


Fig. 2. Structure of population in poverty (Eurostat poverty thresholds of 60%) by the most frequent employment status, 2013



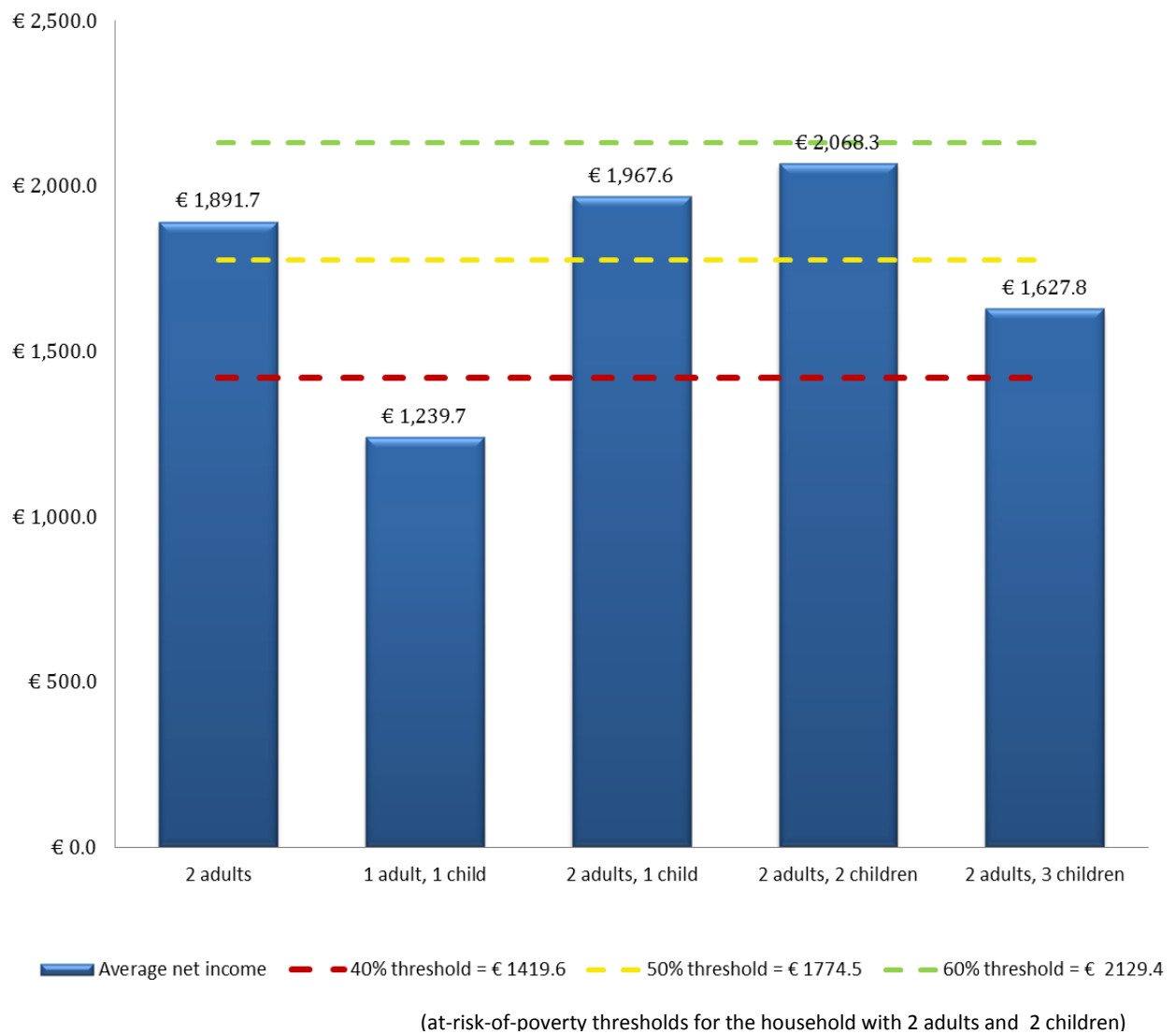
**Fig. 3. Social benefits in comparison to Eurostat 40% and 50% poverty thresholds, 2013**



Benefits/payments	Amount per month	Sources
Minimum wage	€ 1801.5	SSA, 2012
Legal minimum pension	€ 1718.9	MISSOC, 2014
Standard beneficiary pension	€ 2553.7	Pension for average case worker, Government Report, 2010-2011
Average pension	-	-
Survivor benefit	€ 1718.9	MISSOC, 2014
Unemployment insurance benefit (UI - 3 months)	€ 1441.2	SSA, 2012
Maternity insurance benefit	€ 1801.5	SSA, 2012
Disability Insurance (permanent)	€ 1718.9	SSA, 2012
GMI (single)	€ 1348.2	MISSOC, 2014
GMI (per adult living in a household)	€ 1011.2	MISSOC, 2014
At-risk-of-poverty threshold, 40%	€ 1110.0	Eurostat, 2013
At-risk-of-poverty threshold, 50%	€ 1387.5	Eurostat, 2013

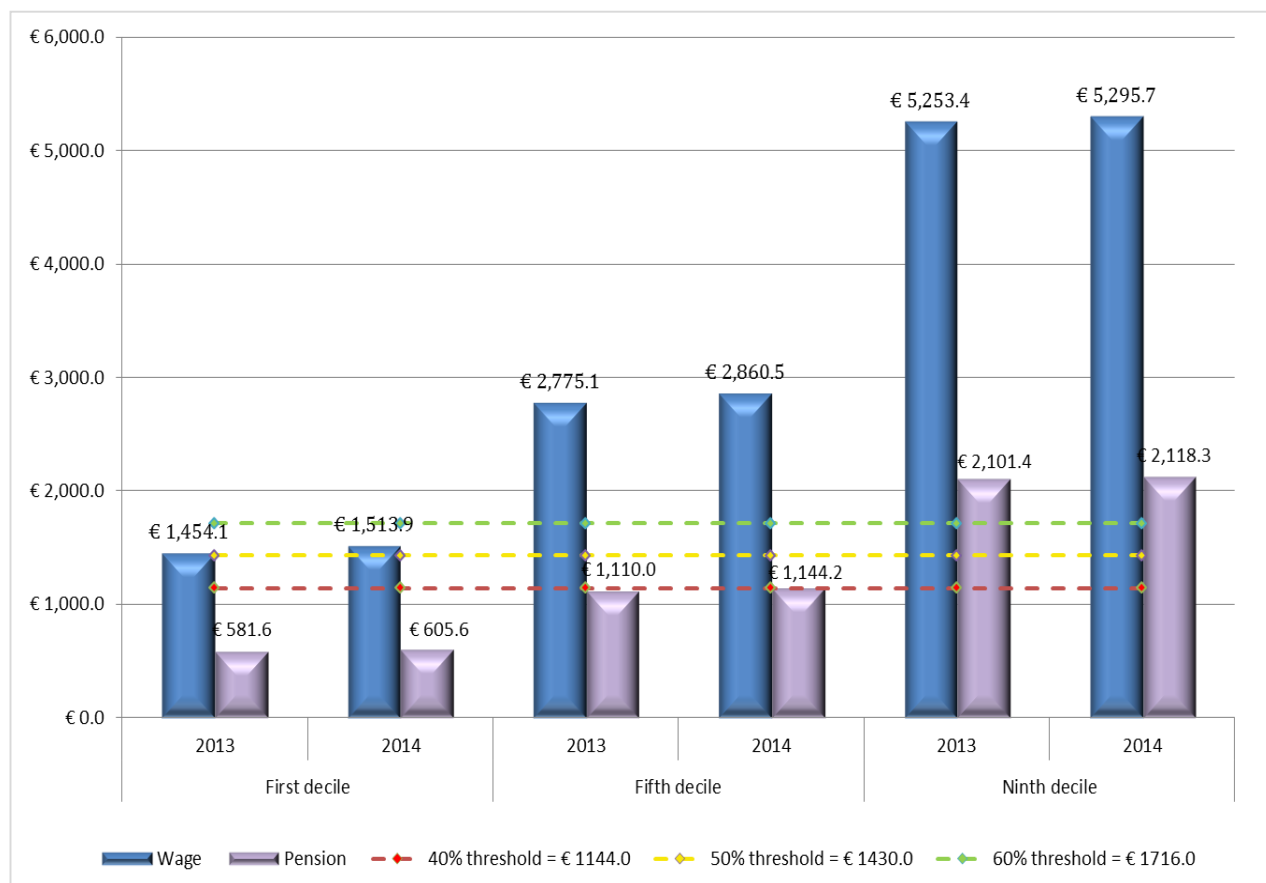


**Fig. 4. Income and poverty indicators by type of household, 2012**

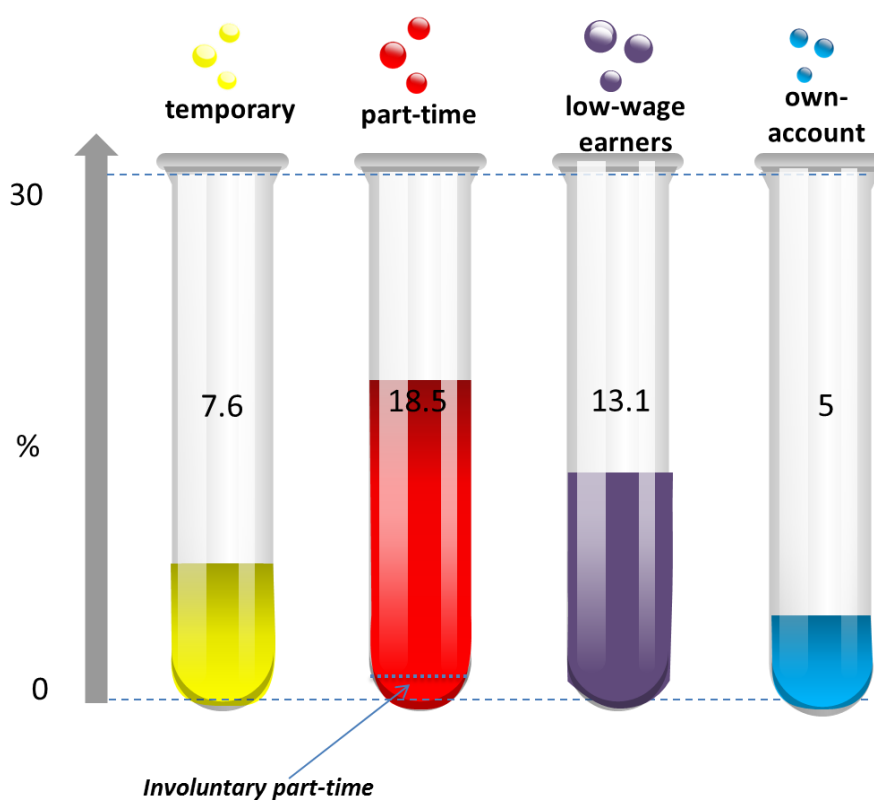


Household composition:	Average net income	At risk of poverty rate (60% threshold)
2 adults	€ 3750.1	5.8 %
1 adult, 1 child	€ 2042.3	46.9 %
2 adults, 1 child	€ 3158.4	12.7 %
2 adults, 2 children	€ 2894.8	14.5 %
2 adults, 3 children	€ 2467.5	24.5 %

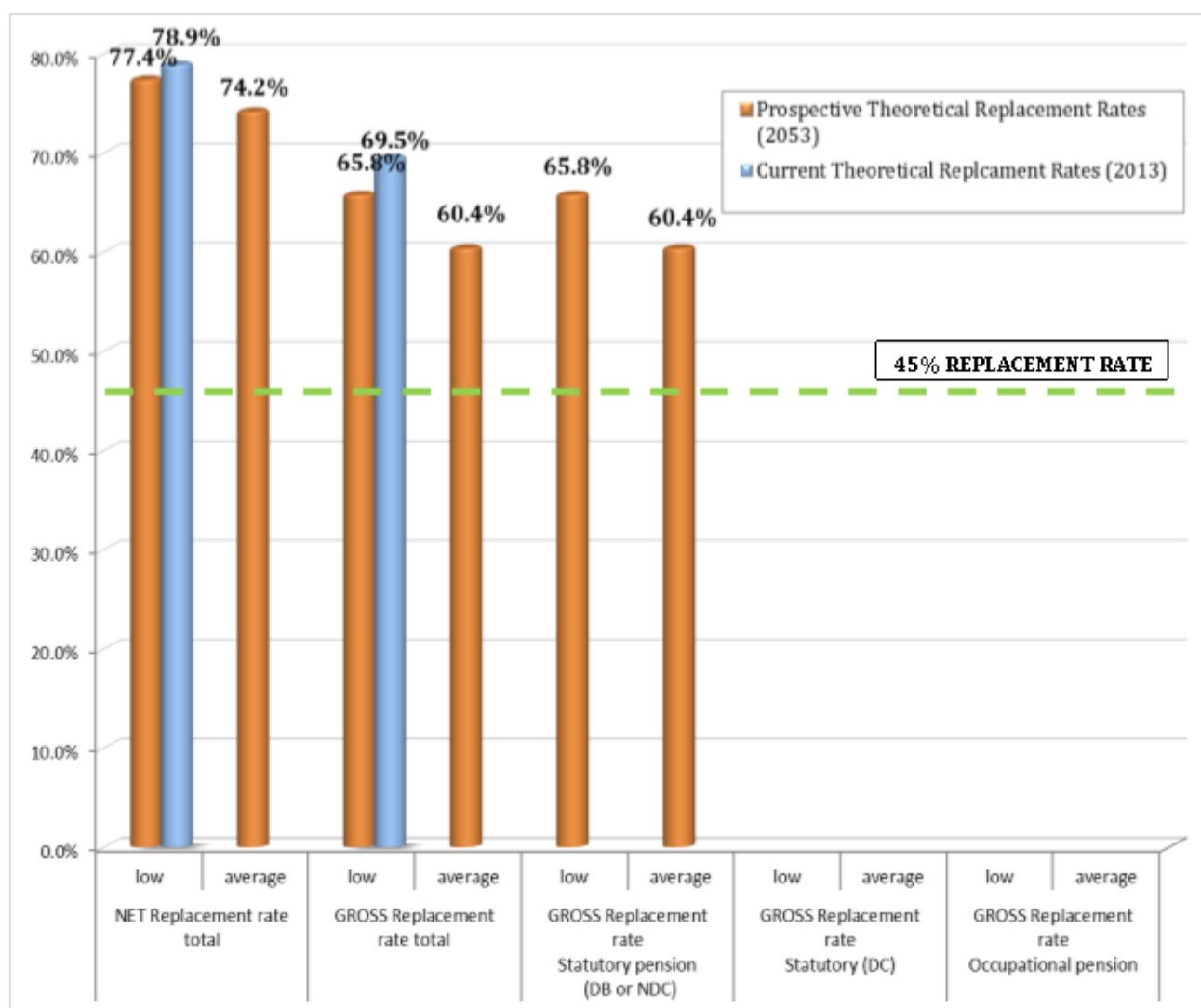
**Fig. 5. Comparison of monthly wages and pensions (40% replacement rate) to the Eurostat thresholds in 2013-2014, by decile**



**Fig. 6. Test on precarious employment: share of employed population by different job security situation, as % of total employment, 2012**



**Fig. 7. Theoretical Replacement Rates for low and average wage earners, retiring in 2053 at statutory pension age (67) with 30 years of contributions between 2013 and 2053**



**Male, 20 years work from age 25 - career break until 10 years prior to SPA - 10 years work.  
10 years of career break in the middle of the career**

	NET Replacement rate total		GROSS Replacement rate total		GROSS Replacement rate Statutory pension (DB or NDC)		GROSS Replacement rate Statutory (DC)		GROSS Replacement rate Occupational pension	
	low	average	low	average	low	average	low	average	low	average
2053	77.4%	74.2%	65.8%	60.4%	65.8%	60.4%	-	-	-	-
2013	78.9%	-	69.5%	-	-	-	-	-	-	-

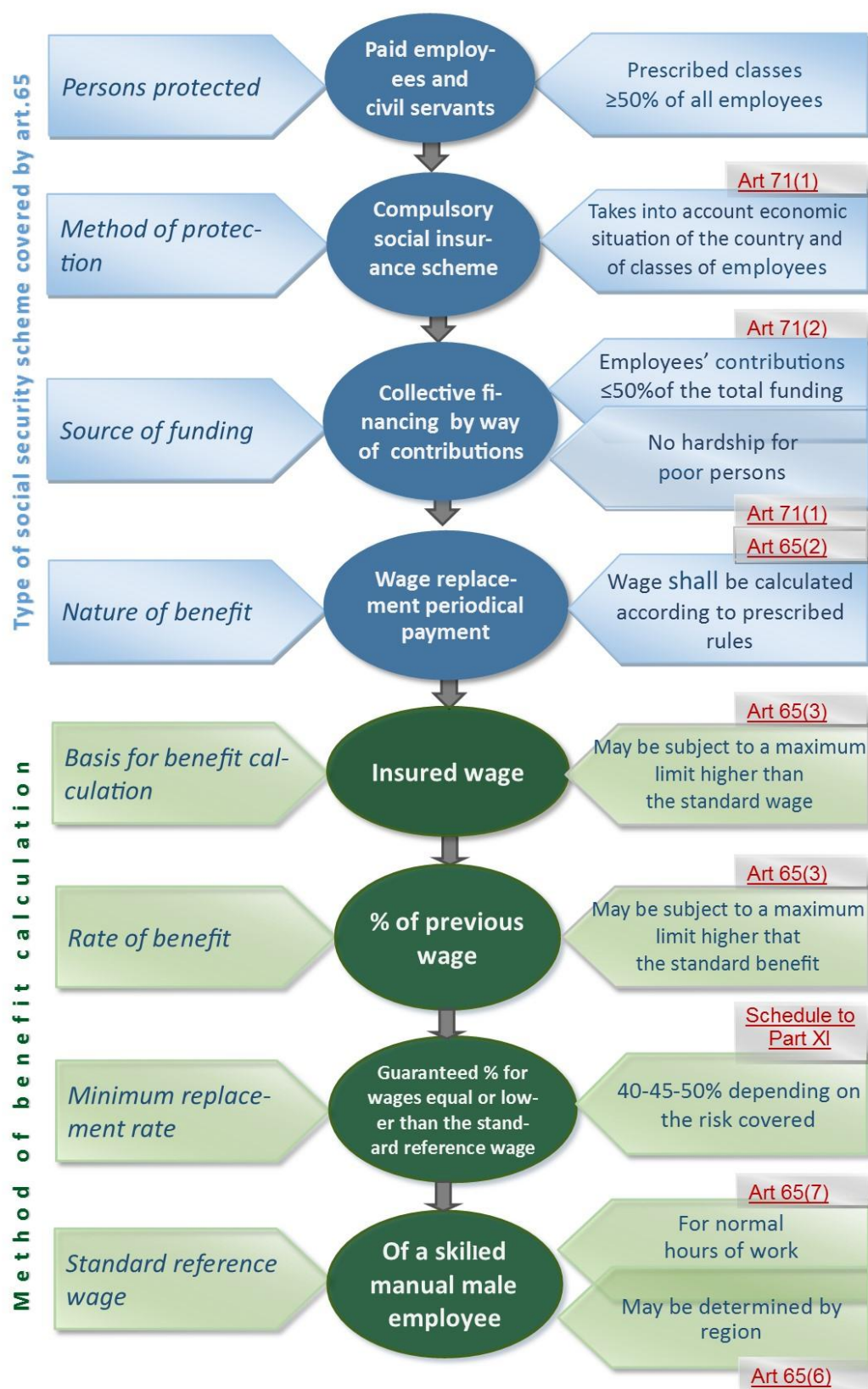
Source: The 2015 Pension Adequacy Report: current and future income adequacy in old age in the EU, Volume I



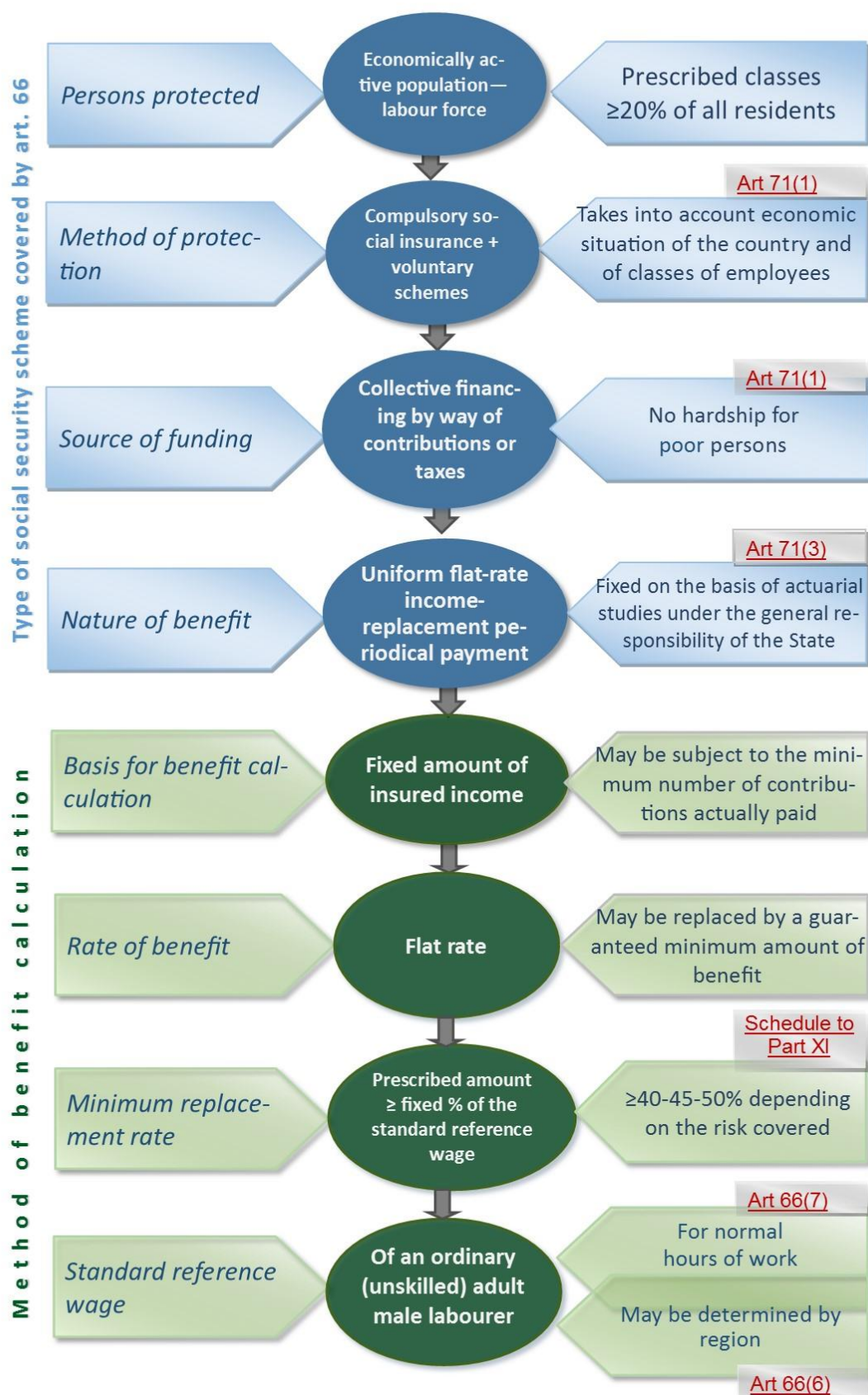
*CHAPTER II. Selection of the Article 65, 66 or 67 under C102/ECSS and determination of the Standard Reference Wage used for calculating the replacement level of benefits*

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- [Fig.10. Comparison of the reported reference wage to other wage indicators in Luxembourg](#)

**Fig. 1. Article 65: Type of social security schemes and method of benefit calculation**

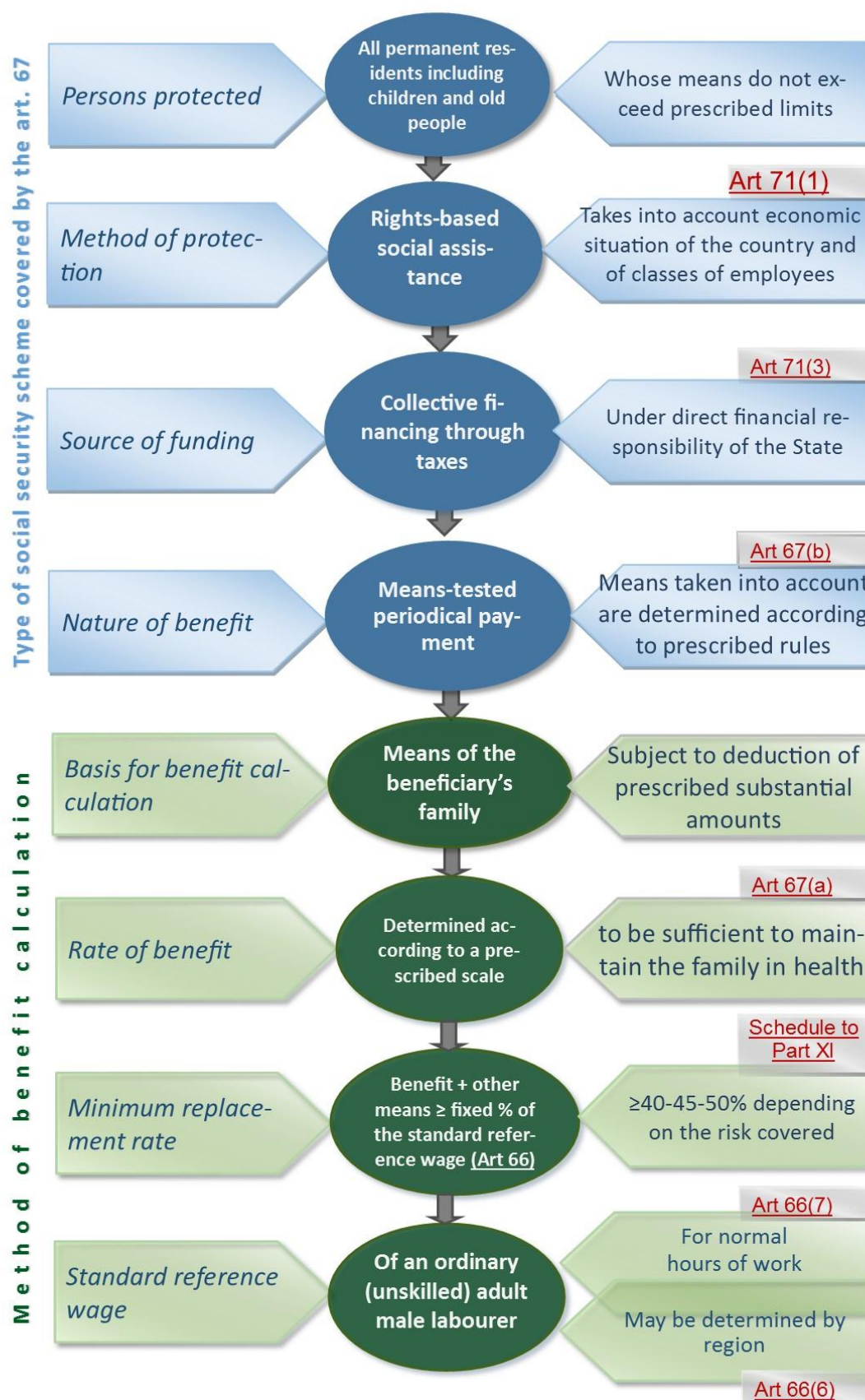


**Fig. 2. Article 66: Type of social security schemes and method of benefit calculation**





**Fig. 3. Article 67: Type of social security schemes and method of benefit calculation**





# **Extracts from the Government Report (2011) on the ECSS concerning the Reference Wage**

***Report of Luxembourg under Article 74 of the European Code of Social Security and its Protocol (1 July 2010 - 30 June 2011), p.9***

Le montant des salaires de base ne pourra être inférieur au salaire minimum légal (1 724,81 €), à moins d'une cause légitime de dispense ou de réduction. En cas de travail à temps partiel, ce seuil est établi sur base du salaire social minimum horaire. Pour les apprentis la base de calcul est constituée par l'indemnité d'apprentissage.

Il est fait usage de l'alinéa b du paragraphe 6 de l'article 65.

i – ii : salaire moyen suivant définition élargie OCDE, salaire moyen des travailleurs du secteur C à K temps plein

Le temps de base qui a servi au calcul du salaire de l'ouvrier masculin qualifié est l'année. Le même temps de base a été utilisé pour le calcul des prestations et des allocations familiales.

Montant du salaire de l'ouvrier masculin qualifié choisi pour 2010: 48 564 €

***Report of Luxembourg under Article 74 of the European Code of Social Security and its Protocol (1 July 2010 - 30 June 2011), p.25***

## Article 44 (Titre I de l'article 66)

A.1. i – ii : salaire moyen suivant définition élargie OCDE, salaire moyen des travailleurs du secteur C à K temps plein

A.2. Le temps de base est l'année.

B. Le montant du salaire type est de 48 564 €

**Table 1. Calculation of the reference wage under all options permitted by articles 65-66 of the ECSS/C102**

Articles in the ECSS/C.102		Comments	Reference wage: amount	
			ILO calculations <sup>1</sup> - 2010	Government <sup>2</sup>
Article 65 (para 6): a skilled manual male employee				
Option 1	Art.65 (6)a: a fitter or turner in the manufacture of machinery other than electrical machinery	occupations of fitter and turner can be found among skilled employees of ISCO 08 <sup>3</sup> (group 7)	N/A	
Option 2	Art.65 (6)b: a person deemed typical of skilled labour	a skilled employee of the ISIC rev.4 <sup>4</sup> group with the highest number of male employees: <i>typical skilled male worker in construction</i>	2587euros <sup>5</sup>	<b>Parts III, IV, V, VI, VIII, IX, X :</b>  salaire de l'ouvrier masculin qualifié choisi :  2010 - 48 564 € = 4047 euros per month  (skilled full-time male worker in industry)
Option 3	Art.65 (6)c: a person whose earnings are equal to 125 per cent of the average earnings of all the persons protected	in countries where all employees are protected average wage is normally used in the economy	4376 euros <sup>6</sup> (full-time and part-time employees)	
Article 66 (para 4): an ordinary male labourer				
Option 4	Art.66 (4)a: a person deemed typical of unskilled labour in the manufacture of machinery other than electrical machinery	an employee of the ISIC rev.4 Manufacture of machinery (2-digit level of the classification: ISIC Rev.4 Section C. Manufacturing, code 28)	N/A	
Option 5	Art.66 (4)b: a person deemed typical of unskilled labour	an unskilled employee of the ISIC rev.4 group with the highest number of male employees: <i>typical unskilled male worker in construction</i>	2229 euros <sup>7</sup>	<b>Part VII:</b>  2010 - 48 564 € = 4047 euros per month

\* Gross wages are used unless stated otherwise

<sup>1</sup> ILO calculations based on EUROSTAT data from Labour Force Survey LFS-2013 and SES-2010 (see detailed information further)

<sup>2</sup> Reference wage reported by the Government under ECSS and C.102

<sup>3</sup> ISCO 08 – International Standard Classification of Occupations 2008 (detailed explanation to follow)

<http://www.ilo.org/public/english/bureau/stat/isco/isco08/>

<sup>4</sup> ISIC rev.4 - International Standard Industrial Classification of All Economic Activities, Rev.4, 2008

<http://unstats.un.org/unsd/cr/registry/isic-4.asp>

<sup>5</sup> Structure of earnings survey (SES) – Eurostat, 2010 [http://appsso.eurostat.ec.europa.eu/nui/show.do?dataset=earn\\_ses10\\_48&lang=en](http://appsso.eurostat.ec.europa.eu/nui/show.do?dataset=earn_ses10_48&lang=en)

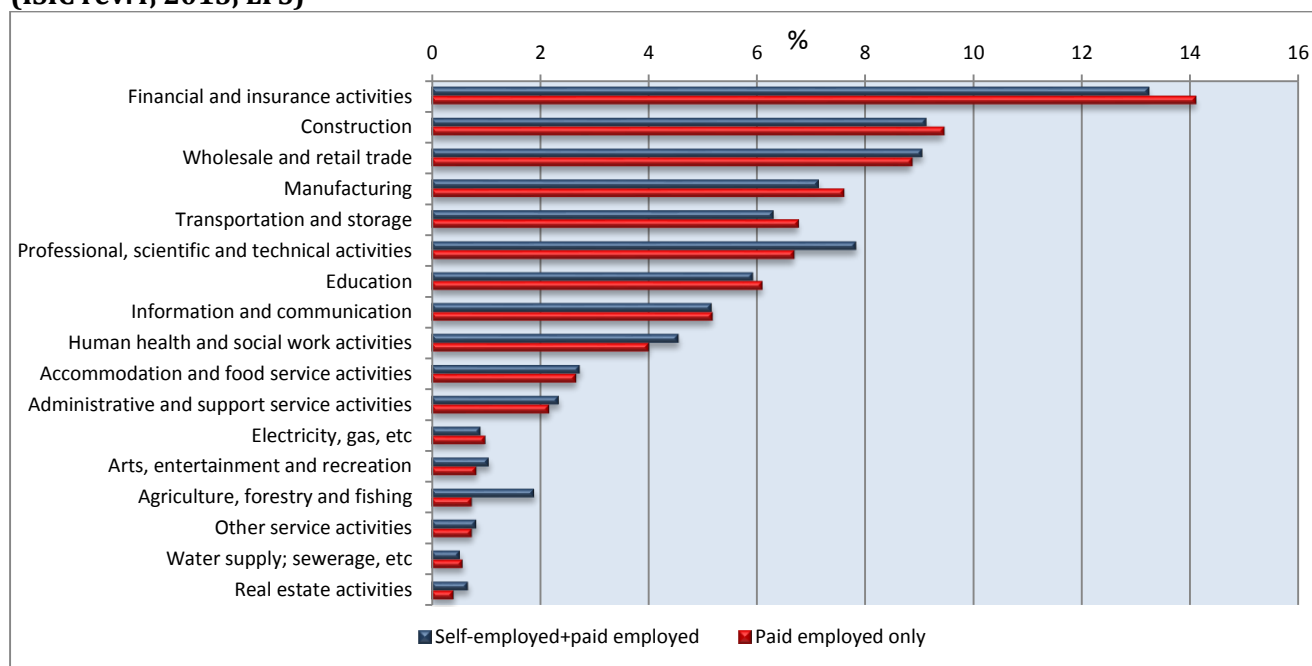
<sup>6</sup> Structure of earnings survey – Eurostat, 2010 [http://appsso.eurostat.ec.europa.eu/nui/show.do?dataset=earn\\_ses\\_monthly&lang=en](http://appsso.eurostat.ec.europa.eu/nui/show.do?dataset=earn_ses_monthly&lang=en)

<sup>7</sup> Structure of earnings survey – Eurostat, 2010 [http://appsso.eurostat.ec.europa.eu/nui/show.do?dataset=earn\\_ses10\\_48&lang=en](http://appsso.eurostat.ec.europa.eu/nui/show.do?dataset=earn_ses10_48&lang=en)

## ILO assessment of the options offered by articles 65-66:

**OPTION 2 - a typical manual male employee is found in the sector with the highest number of employed males = Financial and insurance activities (however, the next sector – Construction should be taken as in Financial and insurance activities the number of manual workers is not high)**

**Fig. 4. Share of employed males by economic activity in total male employment and share of males in paid employment by economic activity in total number of males in paid employment (ISIC rev.4, 2013, LFS)**



Source: Eurostat LFS - [http://appsso.eurostat.ec.europa.eu/nui/show.do?dataset=lfsa\\_egaps&lang=en](http://appsso.eurostat.ec.europa.eu/nui/show.do?dataset=lfsa_egaps&lang=en)

**Fig. 5. The average wage of a typical skilled/unskilled manual male employee is determined by cross-tabulating of the two classifications**

- ISCO 08 – International Standard Classification of Occupations (group 7- skilled and 9 – ordinary)
- ISIC rev.4 - International Standard Industrial Classification of All Economic Activities, Rev.4, 2008

		ISCO 08		
ISIC rev.4	ISCO 08	Total	7. Craft and related trades workers	9. Elementary occupations
	ISIC rev.4			
	Total			
	...			
C. Manufacturing	...		skilled	unskilled
	...			

ISCO 08:

*ISCO 08: Major group 7*

Craft and related trades workers apply their specific knowledge and skills to produce or process goods. The tasks call for an understanding of all stages of the production process, the materials and tools used and the nature and purpose of the final product. Most occupations in this group require skills at the second ISCO level.

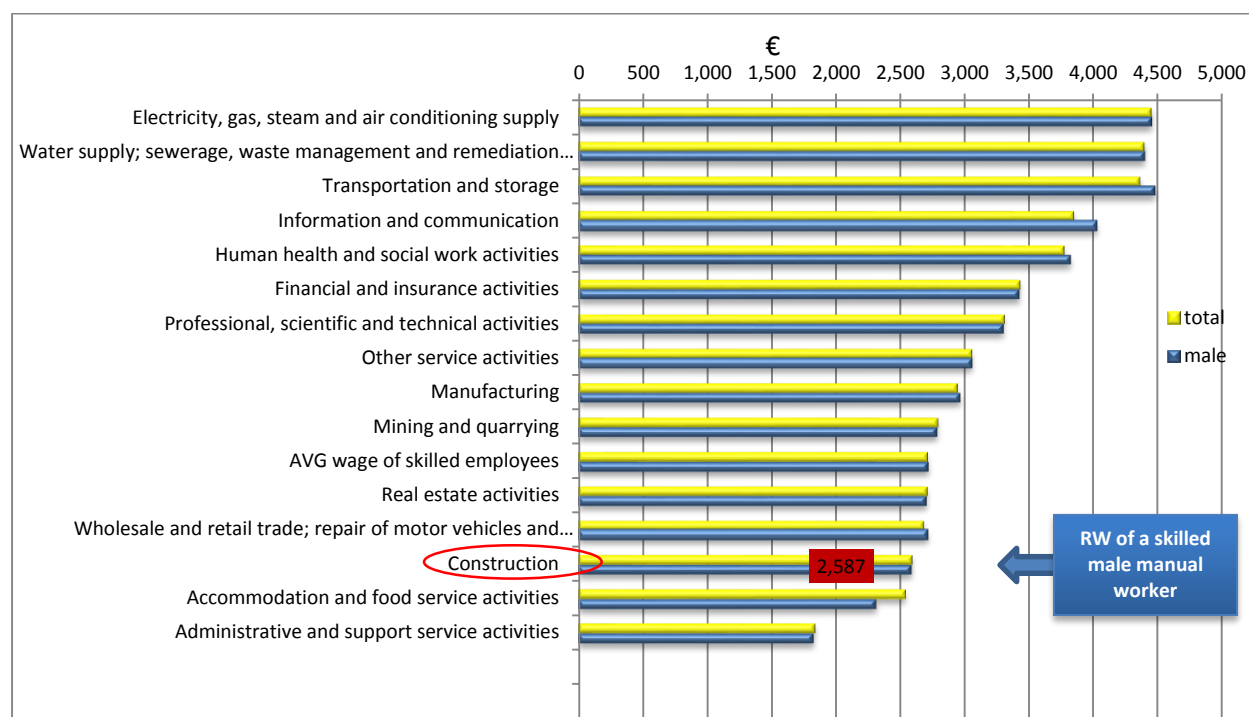
The work is carried out by hand and by hand-powered and other tools.

*ISCO 08: Major group 9*

Elementary occupations involve the performance of simple and routine tasks which may require the use of hand-held tools and considerable physical effort.

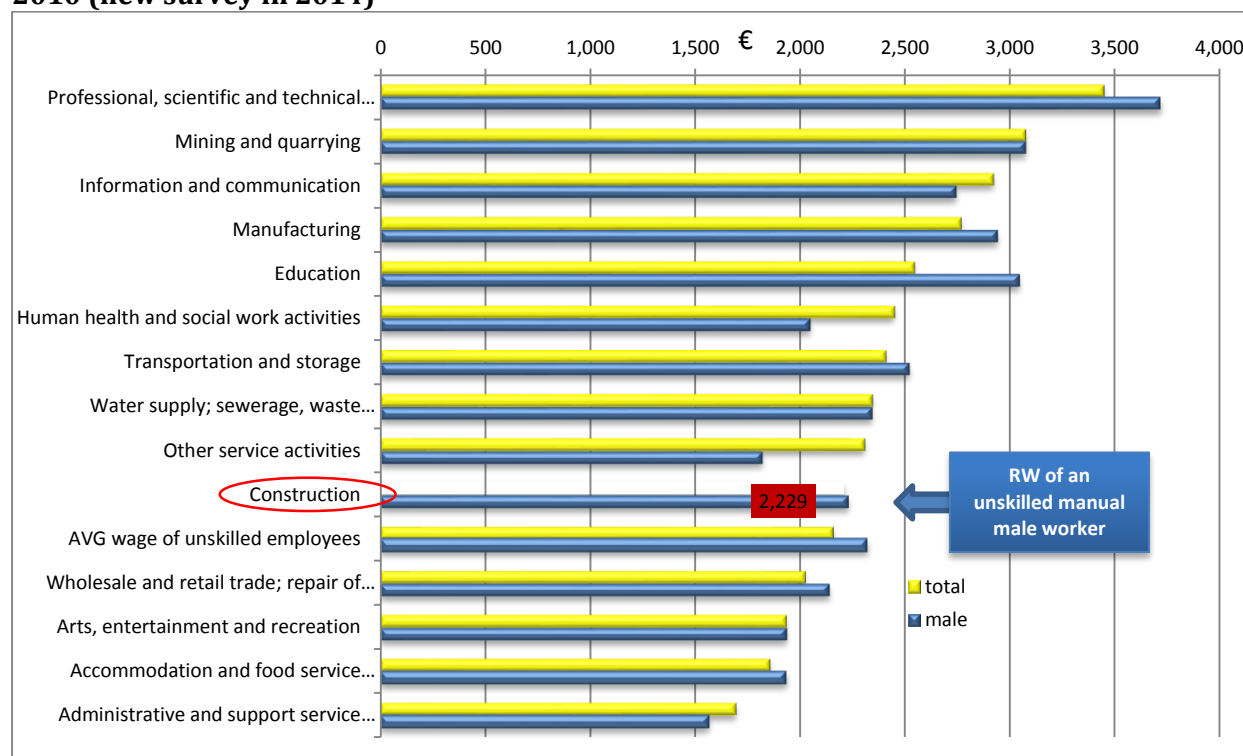
Most occupations in this major group require skills at first level of ISCO (involve physical and manual tasks, require only primary education at most)

**Fig.6. Average monthly wages of skilled employees by economic activity, SES-Eurostat, 2010 (new survey in 2014)**



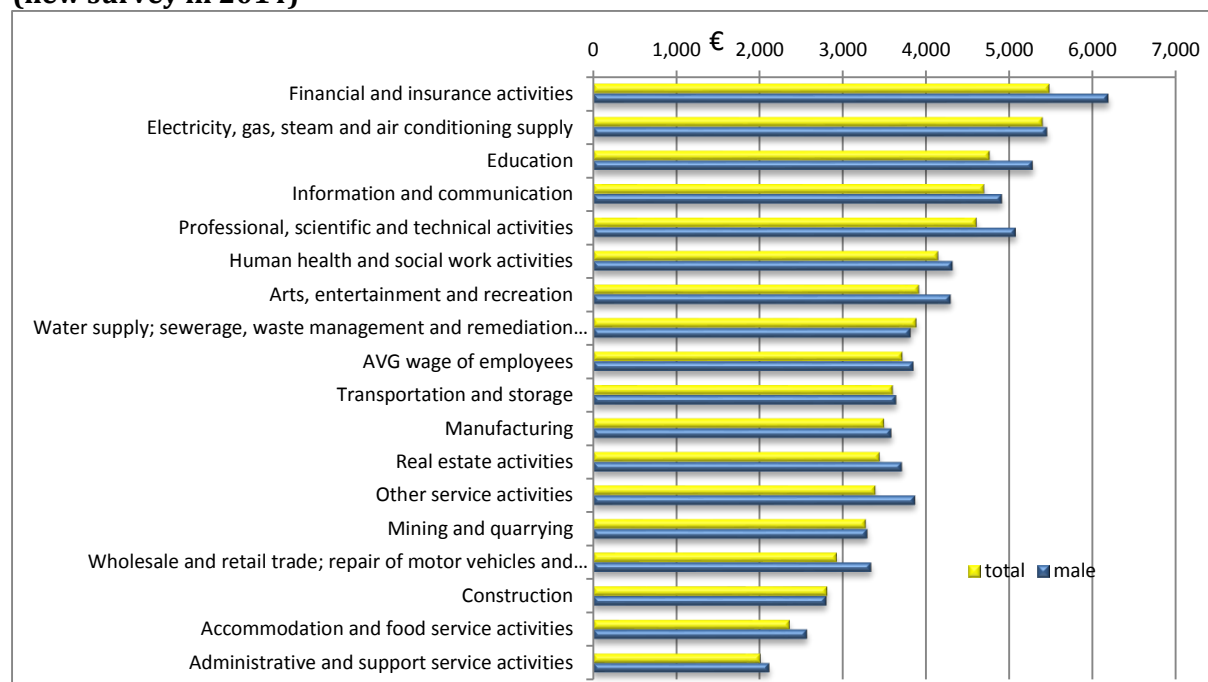
Source: Eurostat SES - [http://appsso.eurostat.ec.europa.eu/nui/show.do?dataset=earn\\_ses10\\_48&lang=en](http://appsso.eurostat.ec.europa.eu/nui/show.do?dataset=earn_ses10_48&lang=en)

**Fig.7. Average monthly wages of unskilled employees by economic activity, SES-Eurostat, 2010 (new survey in 2014)**



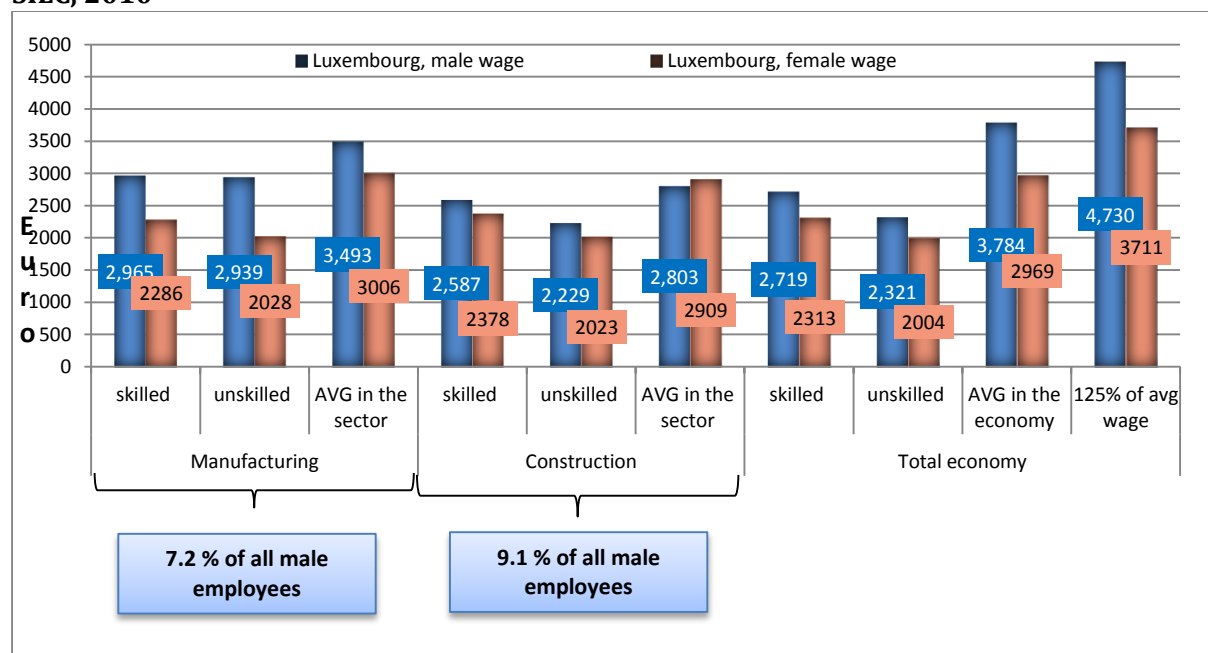
Source: Eurostat SES - [http://appsso.eurostat.ec.europa.eu/nui/show.do?dataset=earn\\_ses10\\_48&lang=en](http://appsso.eurostat.ec.europa.eu/nui/show.do?dataset=earn_ses10_48&lang=en)

**Fig.8. Average monthly wages of employees by economic activity, SES-Eurostat, 2010 (new survey in 2014)**



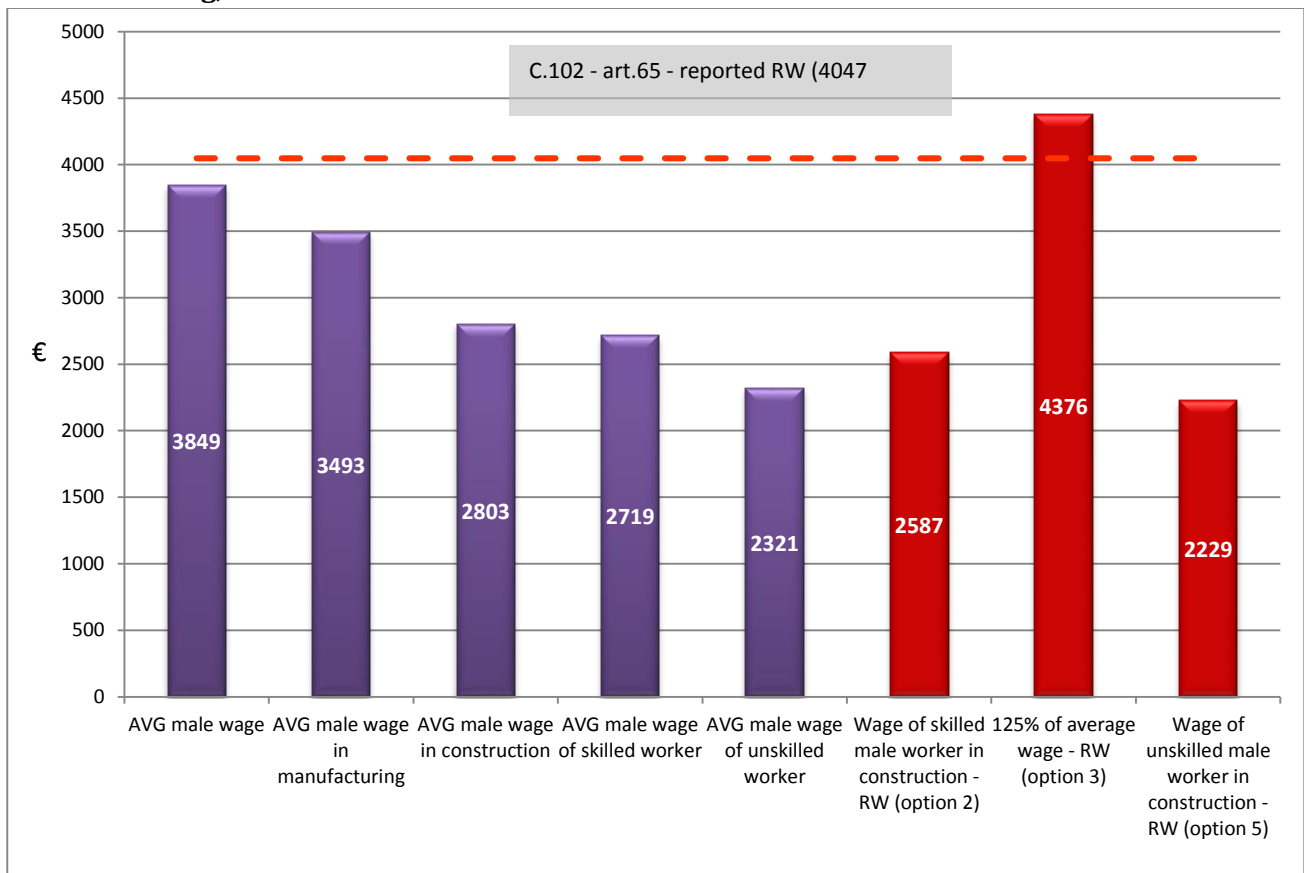
Source: Eurostat SES - [http://appsso.eurostat.ec.europa.eu/nui/show.do?dataset=earn\\_ses10\\_48&lang=en](http://appsso.eurostat.ec.europa.eu/nui/show.do?dataset=earn_ses10_48&lang=en)

**Fig.9. Average monthly wages of male and female skilled and unskilled employees in the 2 sectors (Manufacturing and Construction) with the highest number of male employees, in comparison to other wage indicators in Luxembourg, SES -Eurostat, 2010 and EU-SILC, 2010**



Source: Eurostat SES - [http://appsso.eurostat.ec.europa.eu/nui/show.do?dataset=earn\\_ses10\\_48&lang=en](http://appsso.eurostat.ec.europa.eu/nui/show.do?dataset=earn_ses10_48&lang=en) and [http://appsso.eurostat.ec.europa.eu/nui/show.do?dataset=earn\\_ses\\_monthly&lang=en](http://appsso.eurostat.ec.europa.eu/nui/show.do?dataset=earn_ses_monthly&lang=en) – 125% of average wage (include both full-time and part-time employees)

**Fig.10. Comparison of the reported reference wage to other wage indicators in the Luxembourg, 2010**



Source: Eurostat SES - [http://appsso.eurostat.ec.europa.eu/nui/show.do?dataset=earn\\_ses10\\_48&lang=en](http://appsso.eurostat.ec.europa.eu/nui/show.do?dataset=earn_ses10_48&lang=en) and [http://appsso.eurostat.ec.europa.eu/nui/show.do?dataset=earn\\_ses\\_monthly&lang=en](http://appsso.eurostat.ec.europa.eu/nui/show.do?dataset=earn_ses_monthly&lang=en) for option 3 – 125% of average wage (working time includes both full-time and part-time employees)

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**Table 1. Up-to-date social security standards in force**

Social Human Rights International treaties	Right to health		Right to work		Right to just conditions of work	Right of the family and children to protection	Right of mothers to protection	Rights of persons with disabilities		Right to an adequate standard of living	Financing & Organization
	<i>Right to Social Security Art.9</i>										
<b>ICECSR</b>	Art.12		Art.6		Art.7§b	Art.10§1§3	Art.10§2			Art.7§a§ii, 11§1	Art.2§1, 4, 5
<b>UN Conventions</b>					CRPD	CRC	CEDAW	CRPD			
<b>ESC (1961)</b>	Art.11, 13§1		Art.1§1§3		Art.3§1§2, 15§2	Art.16	Art.8§1	Art.15§1		Art.4§1, 13§1§2§3, 14	
	<i>Right to Social Security Art.12§1§2§3</i>										
<b>Protocol</b>	<i>II</i>	<i>III</i>	<i>IV</i>	<i>V</i>	<i>VI</i>	<i>VII</i>	<i>VIII</i>	<i>IX</i>	<i>X</i>	<i>Schedule to XI</i>	
<b>ECSS</b>	<i>Medical care Part II</i>	<i>Sickness benefit Part III</i>	<i>Unemployment benefit Part IV</i>	<i>Old-age benefit Part V</i>	<i>Employment injury benefit Part VI</i>	<i>Family benefit Part VII</i>	<i>Maternity benefit Part VIII</i>	<i>Invalidity benefit Part IX</i>	<i>Survivor's benefit Part X</i>	<i>Level of benefits Part XI</i>	<i>Financing &amp; Organization Part XII</i>
<b>C102</b>	Part II	Part III	Part IV	Part V	Part VI	Part VII	Part VIII	Part IX	Part X	Part XI	Part XIII
<b>ILO Conventions</b>					C121					C121 Art.19-21	C121 Art.22-26
				C128 Part III				C128 Part II	C128 Part IV	C128 Part V	C128 Part VI
	C130 Part II	C130 Part III								C130 Part III	C130 Part IV
			C168				C183 Art.6,7			C168 Art.15,16	C168 Part VIII



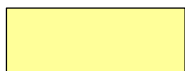
Social Security Standards in force for Luxembourg



Social Security Standards not in force



<div>Social Human Rights</div> <div>International treaties</div>	Right to health		Right to work		Right to just conditions of work	Right of the family and children to protection	Right of mothers to protection	Rights of persons with disabilities		Right to an adequate standard of living	Financing & Organization
ICECSR	Right to Social Security Art.9										
	Art.12		Art.6		Art.7§b	Art.10§1§3	Art.10§2			Art.7§a§ii, 11§1	Art.2§1, 4, 5
UN Conventions					CRPD	CRC	CEDAW	CRPD			
ESC (1961)	Art.11		Art.1§1§3		Art.3§1§2	Art.16	Art.8§1	🙄 Art.15§1		🙄 Art.4§1, 13§1, 14	
	🙄 Art.13§1			🙄 Art.15§2					Art.13§2§3		
	Right to Social Security Art.12§1§2§3										
Protocol	II	III	IV	V	VI	VII	VIII	IX	X	Schedule to XI	
ECSS	Medical care Part II	Sickness benefit Part III	Unemployment benefit Part IV	Old-age benefit Part V	Employment injury benefit Part VI	Family benefit Part VII	Maternity benefit Part VIII	Invalidity benefit Part IX	Survivor's benefit Part X	Level of benefits Part XI	Financing& Organization Part XII
C102	Part II	Part III	Part IV	Part V	Part VI	Part VII	Part VIII	Part IX	Part X	Part XI	Part XIII
ILO Conventions					C121					C121 Art.19-21	C121 Art.22-26
				C128 Part III				C128 Part II	C128 Part IV	C128 Part V	C128 Part VI
	C130 Part II	C130 Part III								C130 Part III	C130 Part IV
			C168				C183 Art.6,7			C168 Art.15,16	C168 Part VIII



Pending comments of the supervisory bodies



critical comments or non-compliance

Table 2. Pending comments of the supervisory bodies

Table 3. Up-to-date standards on which reports are due in 2016

<div>Social Human Rights</div> <div>International treaties</div>	Right to health		Right to work		Right to just conditions of work	Right of the family and children to protection	Right of mothers to protection	Rights of persons with disabilities		Right to an adequate standard of living	Financing & Organization
ICECSR	Right to Social Security Art.9										
	Art.12		Art.6		Art.7§b	Art.10§1§3	Art.10§2			Art.7§a§ii, 11§1	Art.2§1, 4, 5
UN Conventions					CRPD	CRC	CEDAW	CRPD			
ESC (1961)	Art.11, 13§1		Art.1§1§3		Art.3§1§2	Art.16	Art.8§1	Art.15§1		Art.4§1	
					Art.15§2					Art.13§1§2 §3, 14	
	Right to Social Security Art.12§1§2§3										
Protocol	II	III	IV	V	VI	VII	VIII	IX	X	Schedule to XI	
ECSS	Medical care Part II	Sickness benefit Part III	Unemployment benefit Part IV	Old-age benefit Part V	Employment injury benefit Part VI	Family benefit Part VII	Maternity benefit Part VIII	Invalidity benefit Part IX	Survivor's benefit Part X	Level of benefits Part XI	Financing& Organization Part XII
C102	Part II	Part III	Part IV	Part V	Part VI	Part VII	Part VIII	Part IX	Part X	Part XI	Part XIII
ILO Conventions					C121					C121 Art.19-21	C121 Art.22-26
				C128 Part III				C128 Part II	C128 Part IV	C128 Part V	C128 Part VI
	C130 Part II	C130 Part III								C130 Part III	C130 Part IV
			C168				C183 Art.6,7			C168 Art.15,16	C168 Part VIII



Report in 2016

<div>Social Human Rights</div> <div>International treaties</div>	Right to health		Right to work		Right to just conditions of work	Right of the family and children to protection	Right of mothers to protection	Rights of persons with disabilities		Right to an adequate standard of living	Financing & Organization
ICECSR	Right to Social Security Art.9										
	Art.12		Art.6		Art.7§b	Art.10§1§3	Art.10§2			Art.7§a§ii, 11§1	Art.2§1, 4, 5
UN Conventions					CRPD	CRC	CEDAW	CRPD			
ESC (1961)	Art.11, 13§1		Art.1§1§3		Art.3§1§2, 15§2	Art.16	Art.8§1	Art.15§1		Art.4§1	
										Art.13§1§2 §3, 14	
	Right to Social Security Art.12§1§2§3										
Protocol	II	III	IV	V	VI	VII	VIII	IX	X	Schedule to XI	
ECSS	Medical care Part II	Sickness benefit Part III	Unemployment benefit Part IV	Old-age benefit Part V	Employment injury benefit Part VI	Family benefit Part VII	Maternity benefit Part VIII	Invalidity benefit Part IX	Survivor's benefit Part X	Level of benefits Part XI	Financing& Organization Part XII
C102	Part II	Part III	Part IV	Part V	Part VI	Part VII	Part VIII	Part IX	Part X	Part XI	Part XIII
ILO Conventions					C121					C121 Art.19-21	C121 Art.22-26
				C128 Part III				C128 Part II	C128 Part IV	C128 Part V	C128 Part VI
	C130 Part II	C130 Part III								C130 Part III	C130 Part IV
			C168				C183 Art.6,7			C168 Art.15,16	C168 Part VIII



Report in 2017

**Table 4. Up-to-date standards on which reports are due in 2017**

## **Next detailed report of Luxembourg under Article 74 of the ECSS**

*(Extract from CEACR 2015 Conclusions)*

In accordance with the reporting cycle for the Code, the Government is due to submit a detailed report in July–August 2016 covering the five-year period from 1 July 2011 to 30 June 2016. In accordance with the reporting cycle on the application of Convention No. 102, the Government is also due to provide a detailed report in June–August 2016 for the period from 1 June 2011 to 31 May 2016. The Committee draws the Government's attention to the alignment of reporting requirements under the Code and Convention No. 102 and the similarity of the report forms for both instruments, the objective of which is to reduce the administrative burden and avoid the need to duplicate reports. It is for this reason that the report form for the Code explicitly provides that, where a government is bound by similar obligations resulting from the ratification of ILO Convention No. 102, it may provide the Council of Europe with copies of the reports submitted to the International Labour Office on the application of this Convention. Where certain Parts of Convention No. 102 have ceased to be applicable due to ratification of the corresponding Parts of the more advanced Conventions Nos 121, 128 and 130, the Government may equally communicate to the Council of Europe copies of its reports on these Conventions. The Committee emphasizes that this simplified procedure may be used next year to report on all the Parts of the Code that have been accepted. Conversely, the information provided by the Government in its annual reports on the Code is regularly taken into account by the Committee to assess the application of Conventions Nos 102, 121 and 130.

Furthermore, by 31 October 2016, Luxembourg is also due to provide a report on the application of the provisions which have been accepted of the European Social Charter, in the context of the thematic group "Health, social security and social protection", which includes the right to protection of health (Article 11), the right to social security (Article 12), the right to social and medical assistance (Article 13), the right to benefit from social services (Article 14), the right of elderly persons to social protection (Article 23) and the right to protection against poverty and social exclusion (Article 30). The Committee notes that these Articles of the Charter are directly related to a significant number of provisions of the Code and of ILO social security Conventions, which constitute a unique legal space of international social security law. As the reference period for the report under the Charter (1 January 2012–31 December 2015) falls within the reference periods for the detailed reports under the Code and Convention No. 102, the Government is invited to coordinate its compliance and reporting obligations under these instruments with a view to improving the quality and coherence of the information provided. Such coordination should subsequently be extended to include the submission of reports on the application of the social security provisions of United Nations human rights treaties, and particularly the International Covenant on Economic, Social and Cultural Rights, Luxembourg's report on which is overdue since 2008.

With regard to the coordination of substantive commitments, the Committee recalls that, when drawing up its conclusions on the application of the Code by a specific country, it takes into consideration the relevant comments made by other supervisory bodies, such as the European Committee of Social Rights and the Committee on Economic, Social and Cultural Rights of the United Nations. With a view to facilitating the integrated management of the obligations of Luxembourg under the social security provisions of the principal European and international treaties on social rights, the Committee refers the Government to the coordination table and the reporting schedules presented in the attached ILO technical note, as well as to the structured compilation of comments made by the respective supervisory bodies.

**Parts of Convention No.102 no longer applicable following ratification of more advanced standards**

**C102 - Social Security (Minimum Standards)**

*Article 75*

If any Convention which may be adopted subsequently by the Conference concerning any subject or subjects dealt with in this Convention so provides, such provisions of this Convention as may be specified in the said Convention shall cease to apply to any Member having ratified the said Convention as from the date at which the said Convention comes into force for that Member.

**C121 - Employment Injury Benefits → C102, Part IV**

*Article 29*

In conformity with Article 75 of the Social Security (Minimum Standards) Convention, 1952, Part VI of that Convention and the relevant provisions of other Parts thereof shall cease to apply to any Member having ratified this Convention as from the date at which this Convention comes into force for that Member, but acceptance of the obligations of this Convention shall be deemed to constitute acceptance of the obligations of Part VI of the Social Security (Minimum Standards) Convention, 1952, and the relevant provisions of other Parts thereof, for the purpose of Article 2 of the said Convention

**C128 - Invalidity, Old-Age and Survivors' Benefits → C102, Parts V, IX, X**

*Article 45*

1. In conformity with the provisions of Article 75 of the Social Security (Minimum Standards) Convention, 1952, the following Parts of that Convention and the relevant provisions of other Parts thereof shall cease to apply to any Member having ratified this Convention as from the date at which this Convention is binding on that Member and no declaration under Article 38 is in force:

- (a) Part IX where the Member has accepted the obligations of this Convention in respect of Part II;
- (b) Part V where the Member has accepted the obligations of this Convention in respect of Part III;
- (c) Part X where the Member has accepted the obligations of this Convention in respect of Part IV.

2. Acceptance of the obligations of this Convention shall, on condition that no declaration under Article 38 is in force, be deemed to constitute acceptance of the obligations of the following parts of the Social Security (Minimum Standards) Convention, 1952, and the relevant provisions of other Parts thereof, for the purpose of Article 2 of the said Convention:

- (a) Part IX where the Member has accepted the obligations of this Convention in respect of Part II;
- (b) Part V where the Member has accepted the obligations of this Convention in respect of Part III;
- (c) Part X where the Member has accepted the obligations of this Convention in respect of Part IV.

### **C130 - Medical Care and Sickness Benefits → C102, Part III**

#### *Article 36*

1. In conformity with the provisions of Article 75 of the Social Security (Minimum Standards) Convention, 1952, Part III of that Convention and the relevant provisions of other Parts thereof shall cease to apply to any Member having ratified this Convention as from the date at which this Convention is binding on that Member and no declaration under Article 3 is in force.
2. Acceptance of the obligations of this Convention shall, on condition that no declaration under Article 3 is in force, be deemed to constitute acceptance of the obligations of Part III of the Social Security (Minimum Standards) Convention, 1952, and the relevant provisions of other Parts thereof, for the purpose of Article 2 of the said Convention.

### **C130, Part II → C102, Part II**

N.B! For information and reporting purposes, more advanced provisions on medical care contained in C130 include all those contained in Part II of C102.

### **C168 → C102, Part IV**

N.B! For information and reporting purposes, more advanced provisions on unemployment benefit of C168 include those contained in Part IV of C102.

### **Coordination of reporting between the ECSS and C102**

#### **Form for the annual report on the European Code of Social Security (as modified by the Protocol additional thereto)**

If a Government is bound by similar obligations as a result of having ratified the Social Security (Minimum Standards) Convention adopted by the 1952 General Conference of the International Labour Organisation, it may communicate of the Council of Europe copies of the reports it submit to the International Labour Office on the implementation of this Convention.

Council of Europe, Strasbourg 1967

**Table 5. Coordination of reporting obligations on up-to-date ILO social security Conventions ratified by Luxembourg**

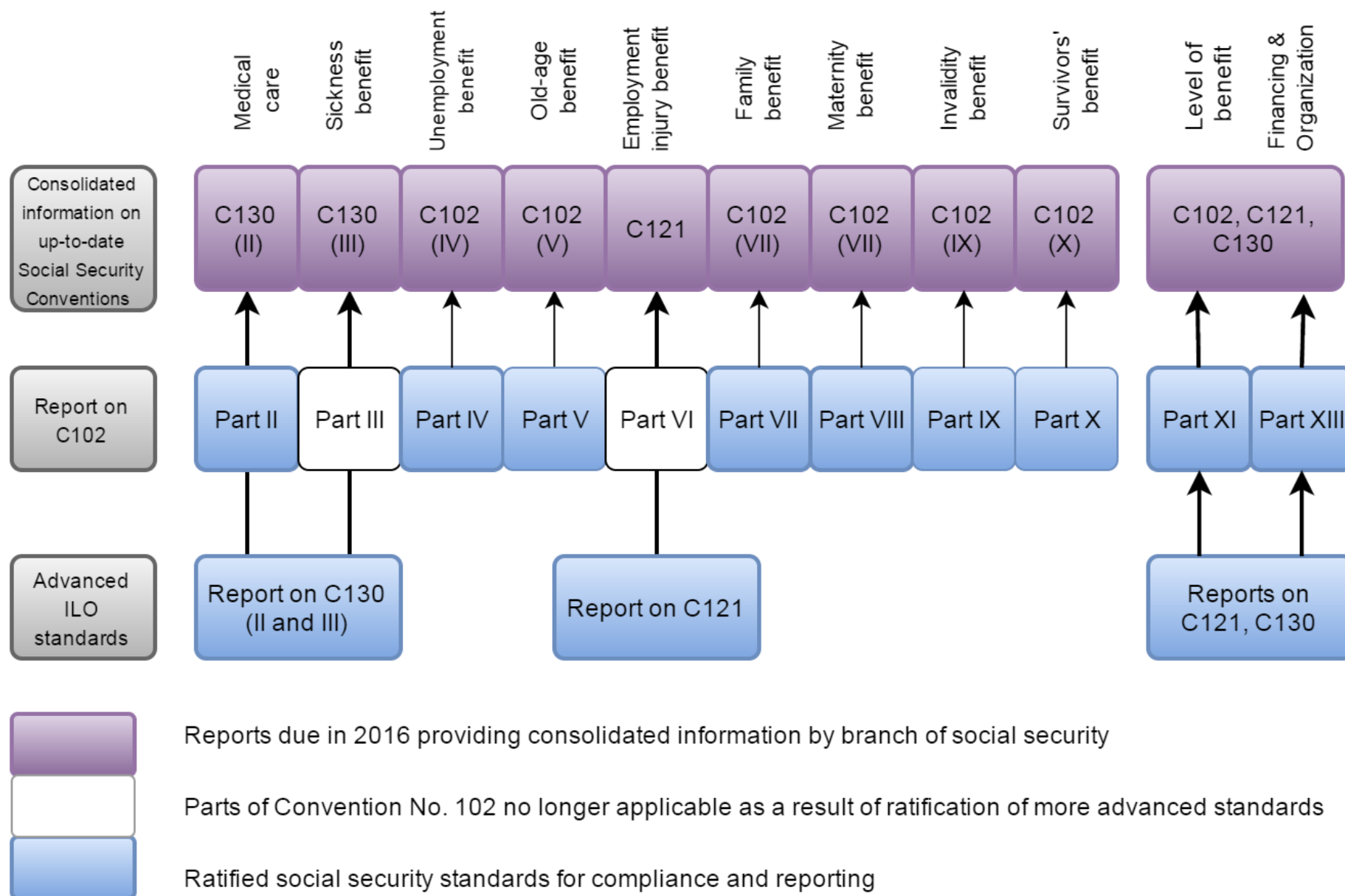
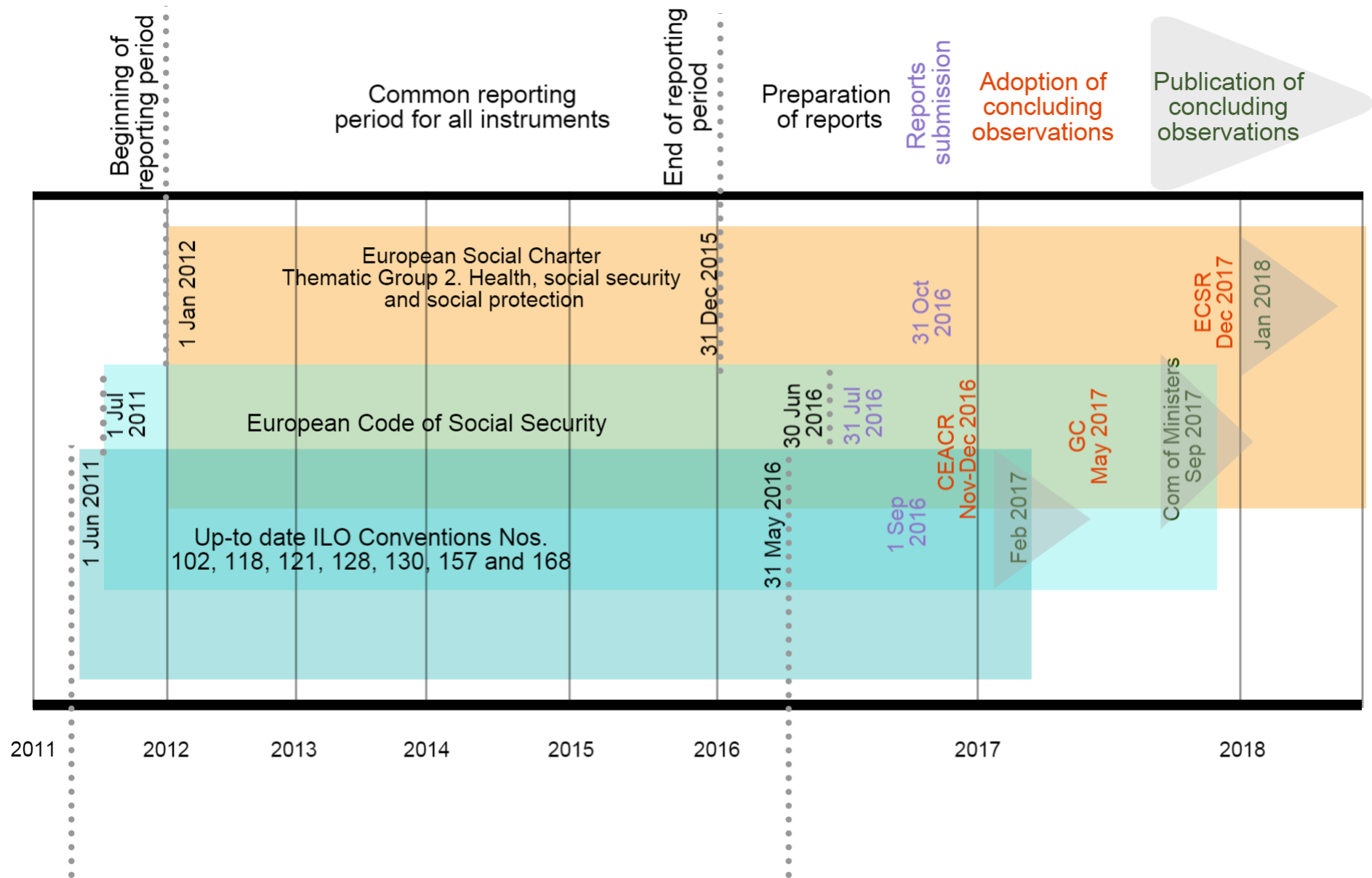
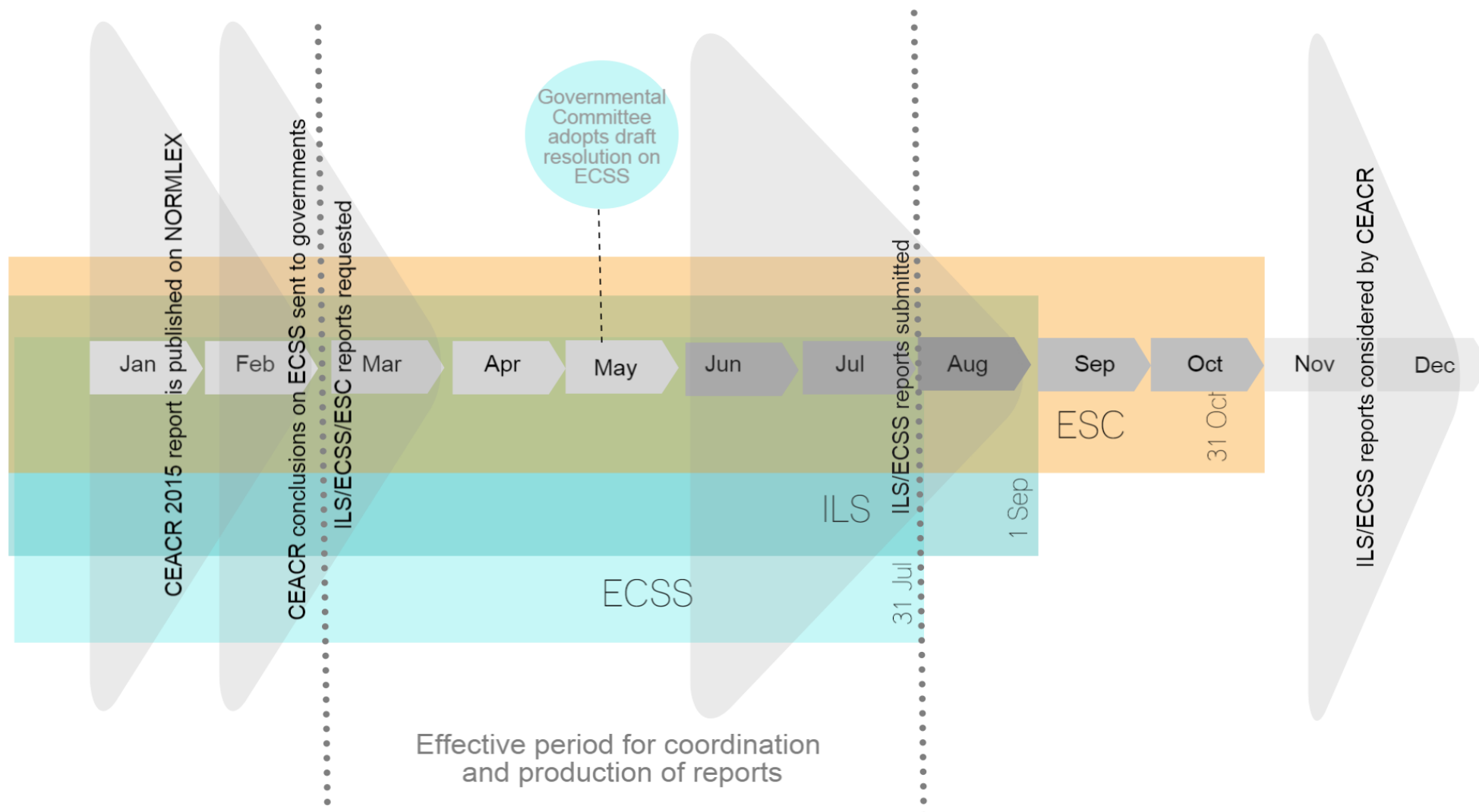


Fig. 1. Time management of the 5 years reporting cycle (2011-2016/17) on international and European social security standards







**Fig. 2. Time management for reporting on social security standards in 2016**



*Chapter IV. Concluding observations of the supervisory bodies concerning provisions of the ratified international treaties on social rights and statements of other international bodies reviewing national economic and social policy*

- [Table 1. International treaties on social rights ratified by Luxembourg](#)
- [Table 2. Monitoring Mechanisms of State Party Compliance and Reporting Obligations](#)

1. **United Nations**

- [International Covenant on Economic, Social and Cultural Rights](#)
- [Convention on the Rights of the Child](#)
- [Convention on the Elimination of All Forms of Discrimination against Women](#)
- [Convention on the Right of Persons with Disabilities](#)

2. **Council of Europe**

- [European Social Charter](#)
- [European Code of Social Security](#)

3. **International Labour Organization**

- [Social Security \(Minimum Standards\) Convention, 1952 \(No.102\)](#)
- [Maternity Protection Convention, 2000 \(No. 183\)](#)

4. **EU Country-Specific Recommendations: 2015**

**Table 1. In force international treaties on social rights ratified by Luxembourg**

Body	International Treaty	Entry into force for Luxembourg	Next report due on
United Nations	ICESCR	18 Aug 1983	30 Jun 2008
	Convention on the Rights of the Child	7 Mar 1994	5 Oct 2019
	Convention on the Elimination of All Forms of Discrimination against Women	2 Feb 1989	LoIPR 3/4/2010
	Convention on the Rights of People with Disabilities	26 Sep 2011	Submitted 04 Mar 2014
Council of Europe	European Code of Social Security	4 Apr 1969	1 Jul - 31 Aug 2016
	European Social Charter (1961)	10 Oct 1991	31 Oct 2015
International Labour Organization	Convention 102	31 Aug 1964	1 Jun - 1 Sep 2016
	Convention 103	10 Dec 1969	Automatic Denunciation by C183
	Convention 121	24 Jul 1972	1 Jun - 1 Sep 2016
	Convention 128		
	Convention 130	3 Jul 1980	1 Jun - 1 Sep 2016
	Convention 168		
	Convention 183	8 Apr 2008	1 Jun - 1 Sep 2018
European Union	Country-Specific Recommendation of 14 July 2015		

**Table 2. Monitoring Mechanisms of State Party Compliance and Reporting Obligations**

<i><b>Instrument</b></i>	<i><b>Supervisory body</b></i>	<i><b>Reporting cycle</b></i>	<i><b>Comments of body</b></i>
International Covenant on Economic, Social and Cultural Rights <b>(ICESCR)</b>	Committee on Economic, Social and Cultural Rights <b>(CESCR)</b>	Periodic reports – every 5 years; initial report – within one year after the entry into force (Art.17)	Concluding observations of the CESCR
Convention on the Rights of the Child	Committee on the Rights of the Child <b>(CRC)</b>	Periodic reports – every 5 years; initial report – within two years after the entry into force (Art.44)	Concluding observations of the CRC
Convention on the Elimination of All Forms of Discrimination against Women	Committee on the Elimination of Discrimination against Women <b>(CEDAW)</b>	Periodic reports – every 4 years; initial report – within one year after the entry into force (Art.18)	Concluding observations of the CEDAW
Convention on the Rights of People with Disabilities	Committee on the Rights of Persons with Disabilities <b>(CRPD)</b>	Periodic reports – every 4 years; initial report – within two years after the entry into force (Art.35)	Concluding observations of the CRPD
European Code of Social Security <b>(ECSS)</b>	ILO Committee of Experts on the Application of Conventions and Recommendations <b>(CEACR)</b> ; European Committee on Social Rights <b>(ECSR)</b> ; Governmental Committee <b>(GC)</b> of the ESC and the ECSS; Committee of Ministers of the Council of Europe.	Full reports – every five years in conjunction with the ILO Convention 102; Periodic reports every year (Art.74).	Conclusions of the CEACR; Report and recommendations of the GC; Resolutions of the Committee of Ministers.
European Social Charter/ Revised European Social Charter <b>(ESC)</b>	European Committee on Social Rights <b>(ECSR)</b> ; GC of the ESC and the ECSS; Committee of Ministers of the Council of Europe.	Normal reports – annually on one of four thematic groups; simplified reports – every two years in case of acceptance of the collective complaints procedure.	Conclusions (national reports) and decisions (collective complaints) of the ECSR; Report and recommendations of the GC; Resolutions of the Committee of Ministers.
ILO Conventions (C102, C121, C128, C130, C168, C183)	Committee of Experts on the Application of Conventions and Recommendations <b>(CEACR)</b> ; Conference Committee on the Application of Standards <b>(CAS)</b> .	Periodic reports every 5 years; detailed initial report after one year following the entry into force.	Observations and direct requests of the CEACR; Conclusions of the CAS.

## 1. United Nations

### **International Covenant on Economic, Social and Cultural Rights – Concluding observations 2003**

(the numeration of comments is kept in accordance to the original file)

[\*UN Office of the High Commissioner for Human Rights website link, Treaty bodies database\*](#)

18. While noting the measures taken by the State party to integrate persons with disabilities into the labour market, the Committee is concerned that the draft law (No. 4827), introduced on 27 July 2001 regarding the integration of persons with disabilities into the labour market, has still not been adopted.

19. The Committee notes with concern that, despite the good overall employment situation, there has been a recent increase in unemployment, which seems to mainly affect young people.

22. The Committee notes with concern that women are still underrepresented in the work force. While taking note that the disparities between wages of men and women have been reduced, the Committee also notes with concern that the current level of wage difference (women receiving 15 per cent lower wages than men) remains a matter of concern.

30. The Committee recommends that the State party accelerate the adoption of draft law No. 4827 regarding the integration of persons with disabilities into the labour market.

31. The Committee recommends that the State party intensify its efforts to reduce the unemployment rate among young people.

32. The Committee recommends that the State party ensure that a prisoner may only perform work for a private enterprise when such work has been consented to and the labour conditions are close to those of a free working relationship as regards wages and social security.

35. The Committee recommends that the State party provide information in its fourth periodic report on how it monitors social services provided by private organizations that use public funds, so as to ensure that they conform to the requirements of the Covenant.

### **Convention on the Rights of the Child – Concluding observations 2013**

No relevant information in the report.

## Convention on the Elimination of All Forms of Discrimination against Women – Concluding observations 2008

[UN OHCHR website link, Treaty bodies database](#)

While noting the positive indicators provided by the State party regarding the use of parental leave by men and welcoming the State party's legislative and policy efforts and other measures to improve reconciliation of family life and work, including the establishment of a network of childcare facilities, the Committee is concerned that domestic and family responsibilities are still primarily borne by women, many of whom interrupt their careers or engage into part-time jobs to meet family responsibilities.

**The Committee encourages the State party to step up its efforts to assist women and men in striking a balance between family and employment responsibilities, inter alia, through further awareness-raising and education initiatives for both women and men on adequate sharing of care of children and domestic tasks as well as ensuring that part-time employment is not taken up almost exclusively by women. The Committee also encourages the State party to consider the findings of the Labour Force Survey, undertaken in 2006 by STATEC, on women's situation in the labour market and to adopt new measures that better address women employment challenges, including the provision of additional childcare facilities for children of different age groups.**

While acknowledging the initiatives taken by the State party to foster women's employment and the resulting growth in the participation of women in the labour market, the Committee is concerned that women remain disadvantaged in the labour market. The Committee is particularly concerned at the resistance of social actors with regard to affirmative action measures aimed to increase the participation of the underrepresented sex in certain sectors. The Committee also notes with concern that women are concentrated in part-time and low-paid work and few women have acceded to high-level posts in economic life. The Committee is equally concerned at the long-standing pay gap between women and men, despite the principle of equal pay for equal work being enshrined in the national legislation, and the absence of a Government strategy to address the issue. The Committee is further concerned at the difficulties experienced by immigrant women regarding their integration and participation in the labour market. The Committee wishes to draw the State party's attention to the disadvantaged situation of women who interrupt their careers for family reasons and the consequences thereof upon retirement and old-age pensions.

**The Committee wishes to emphasize that realization of women's de facto equality with men in the labour market, including in the private sector, so as to achieve compliance with article 11 of the Convention, is an obligation of the State party under the Convention. The Committee calls upon the State party to adopt policies and take all necessary measures, including special temporary measures in accordance with article 4, paragraph 1, of the Convention and general recommendation 25, with time-bound targets, to eliminate occupational segregation, both horizontal and vertical. The Committee encourages the State party to mainstream the issues of immigrant women, who may suffer multiple discriminations, into its employment policies and programmes. The Committee urges the State party to adopt further measures to narrow and close the pay gap between women and men and to adopt mechanisms to monitor the implementation of the principle of equal pay for equal work of work of equal value. The Committee encourages the State party to continue its data collection and analysis efforts to monitor**

**the effectiveness of policy and measures adopted to improve the employment situation of women. The Committee invites the State party to include, in its next report, information on the extent of use and impact of affirmative action in the private sector, and information on measures taken to improve the situation of women in the labour market and their impact.**

### **Convention on the Right of Persons with Disabilities**

No conclusions available.



## **2. Council of Europe**

### **European Social Charter**

[\*Official website of the European Social Charter, link to conclusions\*](#)

#### **Article 1 – Right to work – Conclusions 2012**

##### **Paragraph 1 - Policy of full employment**

###### **Employment situation**

Youth unemployment was relatively high, standing at 15.8% in 2010 (but below the EU-27 average of 21.1%). As regards the long-term unemployment rate, as a percentage of all unemployed persons, it increased 1.0 percentage points between 2007 and 2008, amounting to 29.3% in 2010 (but below the EU-27 average of 39.9%). The Committee notes that despite a slow-down of the economy during the reference period, the labour market in Luxembourg continued to exhibit positive features, notably characterised by a comparatively low unemployment rate.

###### **Employment policy**

The Committee considers that labour market policies implemented in Luxembourg satisfy the obligations under Article 1§1 of the Charter, as shown by the comparatively high activation rate and low unemployment. It nevertheless asks the next report to indicate whether the employment policies in place are monitored and how their effectiveness is evaluated.

###### **Conclusion**

The Committee concludes that the situation in Luxembourg is in conformity with Article 1§1 of the 1961 Charter.

##### **Paragraph 3 - Free placement services**

The Committee asks if there are plans to increase the number of advisers in the offices which are understaffed, as well as the ratio of placement staff to registered jobseekers.

Another source indicates that activation is being improved in Luxembourg by addressing organisational weaknesses in ADEM related to the high number of caseloads per staff in some offices. The Committee asks if there are plans to increase the number of advisers in the offices which are understaffed, as well as the ratio of placement staff to registered jobseekers. Finally, the Committee asks the next report to describe how ADEM co-ordinates its work with the private employment services.

###### **Conclusion**

Pending receipt of the information requested, the Committee defers its conclusion.

#### **Article 3 - Right to safe and healthy working conditions – Conclusions 2013**

##### **Paragraph 1 - Safety and health regulations**

The Committee again requests confirmation that domestic workers are covered by health and safety regulations.

## **Conclusion**

Pending receipt of the requested information, the Committee concludes that the situation in Luxembourg is in conformity with Article 3§1 of the 1961 Charter.

## **Paragraph 2 - Safety and health regulations**

The report does not provide information on enforcement measures taken during the reference period. The Committee asks that the next report provide specific and up-to-date information on this point.

## **Conclusion**

Pending receipt of the information requested, the Committee defers its conclusion.

## **Article 4 - Right to a fair remuneration – Conclusions 2014**

### **Paragraph 1 - Decent remuneration**

The Committee notes in the present case that the net SSM (€1 540.71) is 49.50% of the net average wage (€3 111.96), which is close to the minimum threshold set at 50% of the net average wage and lower than 60% of the net average wage. It also notes that the available income after the addition of cash benefits in cash and in kind (€1 675.71) does not ensure a decent standard of living. It considers therefore that the SSM cannot be regarded as decent remuneration within the meaning of Article 4§1 of the 1961 Charter.

## **Conclusion**

The Committee concludes that the situation in Luxembourg is not in conformity with Article 4§1 of the 1961 Charter, on the ground that the minimum wage for private sector workers does not ensure a decent standard of living.

## **Article 8 - Right of employed women to protection of maternity – Conclusions 2011**

### **Paragraph 1 - Maternity leave**

The report indicates that there have been no changes to the situation which the Committee previously found to be in conformity with Article 8§1. The Committee asks that the next report provide a full and up-to-date description of the situation, including in respect of women employed in the public sector.

## **Conclusion**

The Committee concludes that the situation in Luxembourg is in conformity with Article 8§1 of the 1961 Charter.

## **Article 11 Right to protection of health – Conclusions 2013**

### **Paragraph 1 - Removal of the causes of ill-health**

In its last examination of this provision, the Committee adopted a general question addressed to all States Parties on the availability of rehabilitation facilities for drug addicts, and the range of facilities and treatments. The Committee requests that information be included on this issue in the next report.

## **Conclusion**

The Committee concludes that the situation in Luxembourg is in conformity with Article 11§1 of the 1961 Charter.

## **Paragraph 2 - Advisory and educational facilities**

The Committee asks the next report to include updated information on the whole range of activities undertaken by public health services, or other bodies, to promote health and prevent diseases. The Committee asks the next report to include updated information on health education at schools.

The Committee asks for updated information on what mass screening programmes are available in the country and on the situation concerning school health services.

## **Conclusion**

Pending receipt of the information requested, the Committee defers its conclusion

## **Paragraph 3 - Prevention of diseases and accidents**

The Committee requests information on the arrangements for reporting and notifying diseases and emergency measures in case of epidemics.

## **Conclusion**

Pending receipt of the information requested, the Committee concludes that the situation in Luxembourg is in conformity with Article 11§3 of the 1961 Charter.

## **Article 12 Right to social security – Conclusions 2013**

### **Paragraph 1 - Existence of a social security system**

#### **Risks covered, financing of benefits and personal coverage**

The Committee notes that the personal coverage of social security risks is satisfactory. It asks the next report to provide updated information about the coverage under each branch, as a percentage of active population.

#### **Adequacy of the benefits**

The Committee notes that 50% of the Eurostat median equivalised income stood at €1 356 in 2011. In its previous conclusion (Conclusions XIX-2 (2009)) the Committee held that the situation was not in conformity with the Charter on the ground that it had not been established that the adequacy of social security benefits was secured.

The Committee holds that the minimum level of sickness benefit is adequate.

The Committee asks what is the duration of unemployment benefit and whether there is a reasonable initial period where the worker may refuse an unsuitable job offer without losing entitlement to unemployment benefit.

The Committee notes from ISSA that the minimum monthly pension varies from €1 514.43 to €757.22 if the insured has 40 years or 20 years of coverage respectively. The Committee refers to its question in the General Introduction to the Conclusions 2013 and asks what other benefits are paid to the elderly who are only eligible to 1/40th of the minimum pension.

## **Conclusion**

Pending receipt of the information requested, the Committee defers its conclusion

## **Paragraph 2 - Maintenance of a social security system at a satisfactory level at least equal to that necessary for the ratification of the European Code of Social Security**

Luxembourg has ratified the European Code of Social Security and its Protocol on and has accepted all parts of the Code. The Committee notes from Resolution of the Committee of Ministers CM/ResCSS(2012)10 on the application of the European Code of Social Security and its Protocol by Luxembourg (period from 1 July 2010 to 30 June 2011) that the law and practice in Luxembourg continue to give full effect to the parts of the Code which have been accepted, as amended by the Protocol, subject to receiving the information requested regarding maternity benefit. In so doing, Luxembourg maintains a social security system that meets the requirements of ILO Convention No. 102.

### **Conclusion**

The Committee concludes that the situation in Luxembourg is in conformity with Article 12§2 of the 1961 Charter.

## **Paragraph 3 - Development of the social security system**

The Committee notes that with modifications to the social security system in its various branches the Government has attempted to maintain the system and consolidate the public finances. Some improvements have also taken place and there is no evidence of the reduction in benefits. The Committee asks what impact these reforms have had on the minimum level of income-replacement benefits (unemployment, sickness and old-age).

### **Conclusion**

The Committee concludes that the situation in Luxembourg is in conformity with Article 12§3 of the 1961 Charter.

## **Article 13 - Right to social and medical assistance – Conclusions 2013**

### **Paragraph 1 - Adequate assistance for every person in need**

#### **Types of benefits and eligibility criteria**

The Committee considered in its previous conclusion that excluding from the RMG people dismissed for serious misconduct was not in conformity with the Charter. As young people under 25 (with some exceptions) and people dismissed for serious misconduct remain uneligible to the RMG, although they might claim some subsidiary assistance under the Social Assistance Act 2009, the Committee maintains its findings of non-conformity with Article 13§1.

#### **Personal scope**

Since 2000 (Conclusions XV-1 (2000)), the situation has been held incompatible with the 1961 Charter on the ground that foreign nationals of States Parties to the Charter are entitled to the RMG only after having been lawfully resident for at least five years during the last twenty years (except for nationals of an EU/EEA member state, Swiss nationals, refugees and stateless persons). The Committee notes from the report that the situation is unchanged, except for the fact that people excluded from the RMG might get assistance under the abovementioned Social Assistance Act 2009.

### **Conclusion**

The Committee concludes that the situation in Luxembourg is not in conformity with Article 13§1 of the 1961 Charter on the grounds that:

- it is not established that people in need aged below 25 are all entitled to a guaranteed minimum income;
- it is not established that people dismissed for serious misconduct, who are in need, are entitled to a guaranteed minimum income;
- foreigners in need, nationals of States Parties to the Charter, lawfully resident in Luxembourg are not entitled to a guaranteed minimum income on an equal footing with nationals;
- it is not established that people in need, who are not entitled to a guaranteed minimum income (persons aged below 25, persons dismissed for serious misconduct, persons not complying with employment integration schemes, non EU/EEA or Swiss nationals resident for less than five years), have access to adequate social assistance under the Social Assistance Act 2009.

### **Paragraph 2 - Non-discrimination in the exercise of social and political rights**

The Committee takes note of the information contained in the report submitted by Luxembourg and notes that during the reference period there have been no changes to the situation which it had previously found to be in conformity with the 1961 Charter (Conclusions XIX-2 (2009)). It asks nevertheless that the next report explicitly confirm that, both in law and in practice, beneficiaries of social and medical assistance do not suffer, for that reason, from any restriction to their political and social rights.

### **Conclusion**

Pending receipt of the requested information, the Committee concludes that the situation in Luxembourg is in conformity with Article 13§2 of the 1961 Charter.

### **Paragraph 3 - Prevention, abolition or alleviation of need**

The Committee takes note of this information and requests that the next report indicate whether persons in need can access these services free of charge and whether the Social Welfare Offices have sufficient resources to provide appropriate assistance where necessary.

### **Conclusion**

Pending receipt of the requested information, the Committee concludes that the situation in Luxembourg is in conformity with Article 13§3 of the 1961 Charter.

## **Article 14 - Right to benefit from social services – Conclusions 2013**

### **Paragraph 1 - Promotion or provision of social services**

The Committee reiterates its request for up-to-date information on the staffing of social welfare services. In this connection, the Committee would like the next report to indicate the staff-touser ratio. Although the Committee has on a number of occasions requested up-to-date information on all expenditure on social services, the report says nothing on the subject. The Committee therefore concludes that the situation is not in conformity with Article 14§1 of the 1961 Charter on the ground that it has not been established that spending on social services is sufficient. Lastly, the Committee wishes to know whether personal data protection legislation exists.

### **Conclusion**

The Committee concludes that the situation in Luxembourg is not in conformity with Article 14§1 of the 1961 Charter on the grounds that it has not been established that:

- monitoring arrangements for guaranteeing the quality of the social services supplied by providers do exist;
- spending on social services is sufficient.

## **Paragraph 2 - Public participation in the establishment and maintenance of social services**

Despite the Committee's repeated requests, the report still does not contain any detailed information on the manner in which oversight of private social services is exercised in practice. The Committee therefore concludes that the situation is not in conformity with Article 14§2 of the 1961 Charter on the ground that it has not been established that monitoring arrangements for guaranteeing the quality of the social services supplied by providers do exist.

### **Conclusion**

The Committee concludes that the situation in Luxembourg is not in conformity with Article 14§2 of the 1961 Charter on the ground that it has not been established that monitoring arrangements for guaranteeing the quality of the social services supplied by providers do exist.

## **Article 15 - Right of persons with disabilities to independence, social integration and participation in the life of the community – Conclusions 2012**

### **Paragraph 1 - Vocational training for persons with disabilities**

Given the lack of information about mainstreaming of people with disabilities, the Committee does not consider it established that they enjoy effective equal access to ordinary training.

### **Conclusion**

The Committee concludes that the situation in Luxembourg is not in conformity with Article 15§1 of the 1961 Charter on the grounds that it has not been established that people with disabilities are guaranteed an effective right to mainstream training.

### **Paragraph 2 - Employment of persons with disabilities**

The report also states that the rate of transfer of disabled workers to ordinary employment is minimal and explains that all disabled worker is assessed by a special commission (COR), which assesses whether the worker can work in the ordinary labour market or should be oriented to sheltered workshops. Two degrees of appeal are available against this decision. The Committee reiterates its request for information on relevant case-law.

### **Conclusion**

The Committee concludes that the situation in Luxembourg is not in conformity with Article 15§2 of the 1961 Charter on the ground that it has not been established that people with disabilities are guaranteed effective equal access to employment.

## **Article 16 - Right of the family to social, legal and economic protection – Conclusions 2011**

### **Housing for families**

The Committee notes from the report that during the reference period there was an increase in the number of applications for rented social housing that were not satisfied, despite the growing stock of social housing for rent. It asks that the next report present the measures implemented to enhance satisfaction of applications for rented social housing.

**Family benefits**

The Committee considers that, in order to comply with Article 16, child allowances must constitute an adequate income supplement, which is the case when they represent a significant percentage of median equivalised income. On 1 January 2010, the basic universal child allowance for children up to 6 years was € 185.60 per month, or 7.01% of the median equivalised income. The Committee notes that this is a minimum amount and that this allowance is supplemented by other benefits and measures to assist families. Based on the information at its disposal, the Committee considers that family benefits are at an adequate level.

**Vulnerable families**

States' positive obligations under Article 16 include implementing means to ensure the economic protection of various categories of vulnerable families, including Roma families. The Committee consequently asks what measures are taken to ensure the economic protection of Roma families.

**Conclusion**

Pending receipt of the information requested, the Committee concludes that the situation in Luxembourg is in conformity with Article 16 of the 1961 Charter.

## European Code of Social Security

### **Resolution CM/ResCSS(2015)11 on the application of the European Code of Social Security and its Protocol by Luxembourg (Period from 1 July 2013 to 30 June 2014)**

(Adopted by the Committee of Ministers on 10 September 2015 at the 1234th meeting of the Ministers' Deputies)

[Link to adopted by the Committee of Ministers resolutions](#)

#### **The Committee of Ministers notes:**

I. concerning Part VIII (Maternity benefit), Article 49 of the Code, it is recalled that in certain situations the insured person is required to share in the cost of medical care although, in the case of most medical care directly related to pregnancy, the cost is covered fully by the health insurance scheme. Section 153 of the statutes of the National Health Fund provides that the cost of maternity care shall be covered in accordance with the rules of the agreements and legal provisions applicable to the various categories of supplies and care envisaged. With regard to the cost of medical care and services provided in the context of pregnancy when the woman is not staying in a maternity establishment, they are reimbursed at the rate of 88 per cent. According to the 43rd report, the direct sharing of beneficiaries in the cost of medical consultations outside hospitals is 20 per cent, and for other medical care provided to outpatients and medical consultations the share is 12 per cent;

II. concerning Part XI (Standards to be complied with by periodical payments), Articles 65 and 66, Reference wage, the Committee of Ministers recalls that the reference wage for the calculation of periodical payments under Parts III, IV, V, VI, VIII, IX and X of the Code, as amended by the Protocol, was determined by the government in its 43rd annual report by using Article 65(6)(b) of the Code, which refers to the earnings of a skilled manual male employee. The government indicates in this respect that it had recourse for the determination of such an employee not according to the criteria set out in Article 65(7), that is a skilled manual male employee selected in the division and the major group of economic activities with the largest number of economically active male persons protected in the contingency, in the group of economic activities employing the largest number of such protected persons, but the average wage based on the extended definition adopted by the Organisation for Economic Co-operation and Development (OECD) (average wage of full-time workers in sectors C to K, or €48,564 a year in 2010). With regard to Part VII, the government did not make the calculation by determining the reference wage in accordance with Article 66(4)(a) or (b) of the Code with respect to an ordinary adult male labourer, but continued to refer to the wages of the skilled manual male employee. With regard to the level of benefits related to previous earnings, the Committee of Ministers observes, with reference to the statistical data compiled by the International Labour Office in the above-mentioned "Technical note" which has been transmitted to the government, that the fact of using the extended average wage has the effect that the reference wage is substantially higher than that resulting from the criteria set out in the Code, as amended by the Protocol;

III. concerning social security and poverty reduction, that Luxembourg is in a favourable situation from the viewpoint of measures to combat poverty. Only 1.8 per cent of the population suffers from severe material deprivation, although this rate is nearly 10 per cent on average in



the countries of the European Union. The proportion of the population exposed to the risk of poverty (receiving an income below 60 per cent of the equivalised median income) was 15.9 per cent in 2013, which is also below the European Union average. Poverty among active persons, however, was 11.2 per cent, which is higher than the average for the European Union of 9.1 per cent. In 2012, 14.5 per cent of households composed of two adults and two children, like the beneficiary set out in the Code, were exposed to the risk of poverty, this proportion rising to 46 per cent for single-parent families with one child. However, the existence of a very high aggregate replacement rate for benefits provided by the social security system (79 per cent, compared with 54 per cent in the European Union in 2012), combined with the existence of a minimum pension and a minimum wage set above the poverty levels, respectively 40 and 60 per cent of the equivalised median income, offer effective guarantees for low-income workers and persons receiving pensions from the social security system, of whom only 5 per cent are exposed to the risk of poverty (compared with 13.1 per cent on average in the European Union);

Finds that law and practice in Luxembourg continue to give full effect to the provisions of the Code and the Protocol, subject to abolishing cost-sharing for maternity medical care;

**Decides to invite the Government of Luxembourg:**

I. concerning Part VIII (Maternity benefit), Article 49 of the Code, as the report does not contain a reply on this subject, to give due attention to Article 49(2) of the Code, under the terms of which the medical consultations and visits and other medical care which form part of the prenatal, confinement and postnatal care provided either by a medical practitioner or a qualified midwife shall be entirely free for insured women;

II. concerning Part XI (Standards to be complied with by periodical payments), Articles 65 and 66, Reference wage, to update in its next report the statistics used in the above-mentioned "Technical note" indicating the exact source of the data provided for future reference;

III. concerning social security and poverty reduction, to indicate in its next report the measures taken to combat poverty among the worst affected categories of the population and households, with an indication of the role played by the minimum guaranteed levels of income and social benefits. In so doing, the government may wish to refer to the figures in the above-mentioned "Technical note" with a view to updating and supplementing them with any elements that it considers necessary.

## **CEACR 2015 Conclusions on the application of the European Code of Social Security and its Protocol by Luxembourg**

As a result of its examination, the Committee finds that law and practice in Luxembourg continue to give full effect to the provisions of the Code and the Protocol.

*Part VIII (Maternity benefit), Article 49 of the Code.* In reply to the Committee's previous conclusions concerning the sharing by insured persons in the cost of medical care, the Government indicates that the National Health Fund undertook an analysis in 2014 of the legal, administrative, information technology and financial constraints of the various options for bringing national law and practice into conformity with *Article 49(2)* of the Code. In 2014, the National Health Fund adopted a statutory provision intended to abolish the statutory cost-sharing that still exists for care by midwives (section 64 of the statutes of the National Health Fund) and the Medical Acts Commission undertook a rationalization of the billing of medical acts to abolish certain advantages of gynaecological and obstetric specialists to charge for certain consultations outside the list of medical acts that are fully reimbursed. The National Health Fund considers that in so doing it has contributed to compliance with the obligations deriving from the Code and indicates that it adopted a cautious approach in light of the budgetary discussions on this matter, particularly in relation to the integration of maternity care into the general health insurance scheme. ***The Committee notes with satisfaction the measures taken by the National Health Fund which has abolished the sharing by insured persons in certain medical costs related to maternity.***

*Article 74. Next detailed report on the application of the Code.* (See above under Chapter III)

### 3. ILO Conventions

#### **Social Security (Minimum Standards) Convention, 1952 (No. 102) - Luxembourg (Ratification: 1964)**

Direct Request (CEACR) - adopted 2011, published 101st ILC session (2012) – due in 2016

[Links to pending comments by the ILO supervisory bodies, NORMLEX](#)

**Part VIII (Maternity benefit), Articles 49 and 52 of the Convention.** According to the report, medical care provided in the case of maternity is covered in accordance with the procedures applicable to benefits in kind under health insurance. However, in the case of hospitalization for confinement, cost-sharing in the accommodation fees (€19.44 a day) is not due for the first 12 days. The Committee understands that, with this exception, the rules for the sharing by beneficiaries in the cost of medical care both in hospital and for outpatients, are fully applicable to medical care provided in the case of pregnancy, confinement and their consequences. ***If that is the case, the Committee requests the Government to indicate the manner in which insured women are guaranteed free prenatal care, care during confinement and postnatal care, and hospital care where necessary, in accordance with Articles 49 and 52 of the Convention, which do not allow any sharing in the cost of such care by the beneficiary throughout the contingency.***

**Part XII (Common provisions), Article 69.** According to the report, entitlement to health care is suspended and cash sickness benefits are not paid while the insured person is under detention. ***The Committee requests the Government to explain the extent to which these provisions are compatible with the limited cases in which the suspension of benefits is authorized by Article 69 of the Convention.***

#### **Maternity Protection Convention, 2000 (No. 183) - Luxembourg (Ratification: 2008)**

Direct Request (CEACR) - adopted 2014, published 104th ILC session (2015) – due in 2013

[Link to pending comments by the ILO supervisory bodies, NORMLEX](#)

**Article 8(1) of the Convention. Employment protection. Dismissal for serious misconduct. Burden of proof.** In its report, the Government confirms that although a pregnant woman is protected against dismissal with a notice period, she can be dismissed with immediate effect, pursuant to an authorization by the labour tribunal, if she commits an act of serious misconduct. ***The Committee requests the Government to indicate whether, as part of the established procedure, it is the employer who is required to prove that the dismissal for serious misconduct is unrelated to pregnancy or childbirth and its consequences or nursing.***

## 4. EU Country-Specific Recommendations: 2015

(the numeration of comments is kept in accordance to the original)

The European Union has set up a yearly cycle of economic policy coordination called the European Semester in 2010. Under the European Semester, the European Commission was given a mandate by Member States to check whether they take action on reform commitments they have made at EU level. The European Semester starts when the Commission adopts its Annual Growth Survey which sets out EU priorities to boost job creation and growth for the next year.

Each year, the Commission undertakes a detailed analysis of EU Member States' plans of budgetary, macroeconomic and structural reforms and provides them with the country-specific recommendations basing its decision on the submitted by each country National Reform Programme and Stability Programme. These recommendations provide tailor-made policy advice to Member States in areas deemed as priorities for the next 12-18 months. The European Council endorses the recommendations after the discussion.

Where recommendations are not acted on within the given time-frame, policy warnings can be issued. There is also the option of enforcement through incentives and sanctions in the case of excessive macroeconomic and budgetary imbalances.

**Council Recommendation of 14 July 2015 on the 2015 National Reform Programme of Luxembourg and delivering a Council opinion on the 2015 Stability Programme of Luxembourg (2015/C 272/19), (18.08.2015, C 272/73, *Official Journal of the European Union*).**

[Official Website of the European Commission](#)

(10) The long-term sustainability of public finances is threatened by the growth in pension expenditure, despite recent reform of the system, and by the steady increase in long-term care outlays. Long-term care insurance is projected to run a deficit in 2015 (1) and its reserves are expected to gradually reduce with the result that already in 2017 they will fall below the legal minimum of 10 % of expenses. Some measures with saving potential were adopted in the 2015 budget (2). However, the planned reform of long-term care insurance, which aims at providing people in need of long-term care with an adequate level of services and securing the corresponding financing, has not yet been translated into legislation. The 2012 pension system reform was not ambitious enough, as it addressed only partially the large gap between the statutory and the effective retirement age. Several avenues for early retirement persist. The participation of older workers in the labour market remains very low compared to other Member States. Draft legislation linked to the pension reform and amending the Code of Work (Age Pact) has been prepared. It comprises a package of measures that aims to keep older workers in employment.

(11) The Luxembourg economy is characterised by a sizeable divergence of labour productivity across economic sectors, with productivity in the financial sector twice as high as that in the non-financial sectors. This implies that greater variation in sectoral real wages, in line with sectoral labour productivity, could support the reallocation of labour towards

emerging competitive sectors or sectors that are suffering from cost-competitiveness losses. Barriers remain to the necessary sectoral wage adjustments in the long term.

(12) Despite generally well-performing labour markets and high tertiary education attainment rates, employment rates are comparatively low for older workers, women and low-skilled young people. There remain institutional obstacles to effective activation policies. Within the public employment service, an important reform is advancing to provide individual guidance to jobseekers, which the Government intends to complete by the end of 2015. The draft vocational education and training reform and the secondary school reform to improve educational outcomes, in particular for those with a disadvantaged socioeconomic background, have not been adopted. The announced measures on maternity and education allowances and the planned reform of parental leave can be expected to contribute to increasing the labour market participation of women. Disincentives for second-earners to work arise from the 'joint taxation' system and from the design of the social benefit system. Despite high tertiary education attainment rates, education outcomes remain unsatisfactory, and alleviating the situation of people from migrant backgrounds and low-skilled young people remains difficult. Labour market supply challenges related to institutional factors and to the design of the social benefit system persist and are the source of labour market problems.

HEREBY RECOMMENDS that Luxembourg take action in 2015 and 2016 to:

2. Close the gap between the statutory and effective retirement age, by limiting early retirement and by linking statutory retirement age to life expectancy.

3. Reform the wage-setting system, in consultation with the social partners and in accordance with national practices, with a view to ensuring that wages evolve in line with productivity, in particular at sectoral level.