

### 1. Child's legal capacity

In Luxembourg the minimum age at which a plaintiff can bring a case to court in his own right is 18 for all areas of law. An exception exists for emancipated children who can file a complaint on their own behalf.

In Luxembourg, a specialized judicial system deals with offences committed by children below minimum age of criminal responsibility (MACR). The MACR in Luxembourg is 18 years of age. Therefore a child below the age of 18 does not commit "crimes" under the Luxembourgish law system; rather they commit "acts qualified as crime", for which a specialized jurisdiction, the Juvenile Court, is responsible to apply measures of protection, care or/and education.

### 2. Access to adapted proceedings

Except for some family and child protection matters, civil law cases are tried before civil courts. There are no special family and youth courts in the field of the administrative justice. Only asylum and migration decisions are reviewed by administrative courts.

A specialized Court, the Juvenile Court, is competent to deal with child suspects and offenders, as well as ordering protection measures for children in need of assistance and protection. The Juvenile Court (Tribunal de la jeunesse) adopts education and preservation measures. Child suspects/offenders are not considered as offenders but as children who need protection and help. Consequently, criminal law does not apply as such to children.

The Youth Protection section of the prosecution office treats in general everything that affects children and their families. When child victims are involved in judicial proceedings, prosecutors work closely with the Youth Protection section of the judicial police.

Luxembourg has a specialized judiciary, the Juvenile Court, to deal with family law issues, child protection and guardianship cases. Juvenile and Guardianship Courts operate with specialized judges. Juvenile judges are competent to enforce the laws on youth protection, and in order to modify or enforce divorce decisions if they concern the parental authority of children. Guardianship judges are competent to hear cases related to the parental authority of children whose parents are separated and have not been married to each other. Guardianship judges also exercise supervision over the work of legal representatives or guardians. In this role, guardianship judges may ask a child's legal representatives and guardians for clarification, as well as the child him/herself.

### 3. Legal and policy measures to avoid undue delay in the handling of cases involving children

There are no specific provisions in place to ensure that civil judicial proceedings involving children, take place without undue delay. In terms of procedural deadlines, the general rules (rules applicable to adults) apply. These rules differ depending on the court that hears the case.

### 4. Child specific support mechanisms and procedures and best interest of the child

Persons, including adults and children, can receive free of charge legal information from the legal information service

<https://justice.public.lu/fr/aides-informations/accueil-info-juridique.html>

They can provide support to the child in accessing legal remedies. The child can also be assisted by a lawyer.

The meaning of the term "best interests", is not defined in applicable legislation.

The assessment of the child's best interests falls under the competence of judges. Judges may take into account several factors, while assessing the child's best interests, including, for example, the child's well-being, social factors, etc. Despite the legal requirement in place, the court may take into account the child's views while defining his/her best interests. The child can express his/her views while being heard in civil matters for example concerning the parental authority.

All the courts comply with International legal instruments such as the *European Convention on the Exercise of Children's Rights*, and the case law of the European Court of Human Rights.

### 5. Monitoring enforcement of decisions in proceedings involving children

Children cannot seek the enforcement of a court's judgement in their own right. Their legal representative exercises this right on their behalf.

When a decision has been issued against a child defendant, enforcement of the decision must take place against the child's property. Child defendants, who do not fulfil their obligations arising from the court decision, cannot be subject to the coercive measure of detention.

In child protection cases, the child represented by a lawyer can seek enforcement of a Court's judgement in his/her own right.

### 6. Access to remedies

The child who wants to file a complaint, a legal appeal or a notion for judicial review in front of an ordinary court must be represented by his/her legal representative. An exception is made for emancipated children who can file a complaint on their own behalf.

As the child's legal representative represents the child and takes every act in his/her name, he/she can make submissions or appeals without the child's consent. The court can appoint an ad-hoc administrator if there is a conflict of interest between the parents and the child.

Also decisions taken by the Juvenile Court can be appealed by the child with the support of a lawyer.

### 7. Institutions in charge of child support:

Office national de l'enfance (ONE) <http://www.men.public.lu/fr/aide-assistance/aide-enfance/01-demandeur-aide/index.html>

Service d'assistance sociale (SCAS)-Service de la protection de la jeunesse (SPJ) :

<https://justice.public.lu/fr/aides-informations/assistance-sociale/scas-service-de-la-protection-de-la-jeunesse.html>

Ombuds-Comité fier d'Rechter vum Kand (ORK): <http://ork.lu/index.php/en/>

Its mission is to ensure the implementation of the Convention on the Rights of the Child signed on the 20th November 1989 in New York without interfering in any judicial proceedings.

### 8. Adoption

In Luxembourg, adoption is open to all Luxembourg residents, whether or not they are nationals, as well as to non-residents who wish to adopt a person residing in Luxembourg.

Requirements for adoption are governed by the national law of the adopter(s).

In the case of adoption by two spouses who do not share the same nationality or who are stateless, the applicable law is that of their common habitual residence at the time of the request.

For adoptees, the legislation of their country of origin is applied, unless the planned adoption confers the adopter's nationality on them. If there are conflicting jurisdictional rules, the law of the country where the adoption is validly concluded applies.

Anyone wishing to adopt a child must first contact the Ministry of National Education, Children and Young People (MENJE) in order to file an adoption application. The "*adoption preparation course*" comes before an assessment is made of applicants' suitability to adopt.

The *Maison de l'Adoption* is an advisory service on adoption for people concerned by adoption (prospective adopters, adoptees, adoptive families, professionals involved in adoptions).

It provides support both during and after the adoption procedure through personalised consultations.

The procedure of adoption in Luxembourg involves various stages.

Link to legislation: <http://legilux.public.lu/>

[Child-friendly justice in Luxembourg \(in English and French\)](#)  (712 Kb) 

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