

Intersex Genital Mutilations Human Rights Violations Of Children With Variations Of Reproductive Anatomy



NGO Report (for PSWG)
to the 5th and 6th Report of Luxembourg on the
Convention on the Rights of the Child (CRC)

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**NGO Report (for LOIPR)
to the 5th and 6th Report of Luxembourg
on the Convention on the Rights of the Child (CRC)**

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Executive Summary

All typical forms of IGM practices are still practised in Luxembourg today, facilitated and paid for by the State party via the public health system. CEDAW has already recommended Luxembourg to take action against harmful practices on intersex children, however so far the State party fails to act.

Luxembourg is thus in breach of its obligations under CRC to (a) take effective legislative, administrative, judicial or other measures to prevent harmful practices on intersex children causing severe mental and physical pain and suffering of the persons concerned, and (b) ensure access to redress and justice, including fair and adequate compensation and as full as possible rehabilitation for victims, as stipulated by CRC art. 24 para. 3 in conjunction with the CRC/CEDAW Joint general comment No. 18/31 “on harmful practices”.

This Committee has consistently recognised IGM practices to constitute a harmful practice under the Convention in Concluding Observations.

Also **CAT, CEDAW, CRPD, the HRCtee, the UN Special Rapporteur on Torture (SRT), the UN High Commissioner for Human Rights (UNHCHR), the World Health Organisation (WHO), the Inter-American Commission on Human Rights (IACHR), the African Commission on Human and Peoples’ Rights (ACHPR), the Council of Europe (COE) and others have consistently recognised IGM as a breach of international law and have called for legislation to (a) end the practice, (b) ensure redress and compensation, and (c) to provide access to free counselling.**

Intersex people are born with Variations of Sex Anatomy, including atypical genitals, atypical sex hormone producing organs, atypical response to sex hormones, atypical genetic make-up, atypical secondary sex markers. While intersex people may face several problems, in the “developed world” the most pressing are the ongoing Intersex Genital Mutilations, which present a distinct and unique issue constituting significant human rights violations.

IGM practices include non-consensual, medically unnecessary, irreversible, cosmetic genital surgeries, and/or other harmful medical procedures based on prejudice that would not be considered for “normal” children, without evidence of benefit for the children concerned. Typical forms of IGM include “masculinising” and “feminising”, “corrective” genital surgery, sterilising procedures, imposition of hormones, forced genital exams, vaginal dilations, medical display, human experimentation and denial of needed health care.

IGM Practices cause known **lifelong severe physical and mental pain and suffering**, including loss or impairment of sexual sensation, painful scarring, painful intercourse, incontinence, urethral strictures, impairment or loss of reproductive capabilities, lifelong dependency of artificial hormones, significantly elevated rates of self-harming behaviour and suicidal tendencies, lifelong mental suffering and trauma, increased sexual anxieties, less sexual activity, dissatisfaction with functional and aesthetic results.

For 25 years, intersex people have publicly denounced IGM as **harmful and traumatising**, as a form of **genital mutilation and child sexual abuse**, as **torture or ill-treatment**, and called for legislation to prevent it and to ensure remedies.

This **Thematic NGO Report** has been compiled by the international intersex NGO **StopIGM.org / Zwischengeschlecht.org**, and endorsed by **Intersex & Transgender Luxembourg (ITGL)**.

It contains **Suggested Questions for the LOIPR** (see next page).

Suggested Questions for the List of Issues

The Rapporteurs respectfully suggest that in the LOIPR the Committee asks the Luxembourg Government the following questions with respect to the treatment of intersex children:

Harmful practices: Intersex Genital Mutilation

- **How many non-urgent, irreversible surgical and other procedures have been undertaken on intersex children before an age at which they are able to provide informed consent? Please provide detailed statistics on sterilising, feminising, masculinising procedures and imposition of hormones, including prenatal procedures.**
- **What measures does the State party plan to implement to stop this practice?**
- **Please indicate which criminal or civil remedies are available for intersex people who have undergone involuntary sterilisation or unnecessary and irreversible medical or surgical treatment when they were children and whether these remedies are subject to any statute of limitations?**
- **Please indicate which means of rehabilitation are available for intersex people who have undergone involuntary procedures?**

Introduction

1. Intersex, IGM and Human Rights in Luxembourg

IGM practices are known to cause severe, lifelong physical and psychological pain and suffering, and have been repeatedly **recognised by multiple UN treaty bodies¹ including CRC** as constituting a harmful practice, violence and torture or ill-treatment.

Luxembourg has recently been reviewed by **CEDAW** which **recognised** “*non-consensual, unnecessary genital surgery*” and “*other comparable procedures that violate the physical integrity*” of intersex children in Luxembourg as constituting a **harmful practice** and, referring to the CEDAW/CRC Joint General Comment No. 31/18, recommended the State party to inter alia “*[s]pecifically prohibit non-consensual [...] surgery on intersex persons*” and to “*[a]dopt legal provisions to provide redress to intersex persons who are victims of surgical or other medical interventions performed without their free, prior and informed consent*” (CEDAW/C/LUX/CO/6-7, paras 27-28). However, to this day the State party **fails to even ensure data collection and monitoring** of genital surgery and other harmful practices on intersex children, but instead **misrepresents** intersex as “a part of the LGBTI umbrella” suffering from “discrimination”.

This NGO Report demonstrates that the ongoing medicalised **harmful practice on intersex persons in Luxembourg** – advocated, facilitated and paid for by the State party, **both domestic and abroad** – constitutes a serious breach of Luxembourg’s obligations under the Convention.

2. About the Rapporteurs

This NGO report has been prepared by *StopIGM.org / Zwischengeschlecht.org*:

- **StopIGM.org / Zwischengeschlecht.org**, founded in 2007, is an international intersex human rights NGO based in Switzerland. It is led by intersex persons, their partners, families and friends, and works to eliminate IGM practices and other human rights violations perpetrated on intersex people, according to its motto, “*Human Rights for Hermaphrodites, too!*”² According to its charter,³ *Zwischengeschlecht.org* works to support persons concerned seeking redress and justice, and regularly reports to UN treaty bodies.⁴ **StopIGM.org has been publicly active in Luxembourg since 2017,**^{5 6 7 8} provided continuing education to teaching and health care professionals (in collaboration with ITGL),^{9 10} and consulted on intersex issues by the Comité LGBTI coordinated by the Ministry for Family Affairs and Comité interministériel des droits de l’homme presided by the Ministry for Foreign Affairs.

1 **CAT, CRC, CRPD, SPT, SRT, SRSG VAC, COE, ACHPR, IACHR** (2016), “End violence and harmful medical practices on intersex children and adults, UN and regional experts urge”,

<http://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=20739&LangID=E>

2 <http://Zwischengeschlecht.org/> English pages: <http://StopIGM.org/>

3 <http://zwischengeschlecht.org/post/Statuten>

4 <http://intersex.shadowreport.org/>

5 <http://intersex.shadowreport.org/public/2017-CAT-Luxemburg-LOIPR-Zwischengeschlecht-Intersex-IGM.pdf>

6 "Le Quotidien" 21.03.2017, p. 3 (in French), http://kastrationsspital.ch/public/Luxembourg_LeQuotidien_Intersex_21-03-2017.pdf

7 Woxx 23.02.2017 (in German), <http://www.woxx.lu/intersex-das-tabuisierte-geschlecht/>

8 <http://blog.zwischengeschlecht.info/post/2018/02/04/Luxemburg-Intersex-Personen-besser-schutzen-RTL-03-02-2018>

9 https://www.slp.lu/wp-content/uploads/Journe%CC%81es-intersexes_20.21-03-2017_STD_papier-A4.pdf

10 <https://ssl.education.lu/ifen/descriptionformation?idFormation=194905>

In addition, we would like to acknowledge the groundbreaking work of **Intersex & Transgender Luxembourg (ITGL) a.s.b.l.**¹¹, in particular ITGL's continued work to raise public and institutional awareness of intersex issues and denouncing IGM practices. As due to the stigma associated with intersex and the comparatively small size of the Douchy, in Luxembourg there are no publicly visible intersex persons,¹² ITGL therefore consults and collaborates with intersex persons from neighbouring countries to adequately represent intersex issues, namely Thierry Bosman¹³ and Kris Günther¹⁴ (Intersex Belgium), Vincent Guillot (France)¹⁵, and Daniela Truffer (StopIGM.org).¹⁶

3. Methodology

This thematic NGO report is based on the **2017 CAT LOIPR Luxembourg NGO Report**¹⁷ and the **2018 CEDAW Luxembourg NGO Submission**¹⁸ by the same Rapporteurs, as well as the **2018 CRC PSWG Belgium NGO Report**¹⁹ by partly the same Rapporteurs.

11 <https://itgl.lu/>

12 Erik Schneider: "Luxemburg – die Intersex-freie Zone Europas?", forum 341, June 2014, p. 4-6, https://www.forum.lu/wp-content/uploads/2014/06/7880_341_Schneider.pdf

13 <http://cet.lu/wp-content/uploads/2017/11/Aventure-intersexe-au-Luxembourg-Communiquee.pdf>

14 See Revue Nr. 10, 18.03.2017 (in German), http://kastrationsspital.ch/public/luxembourg_revue-10_intersex_mars_2017_scan.pdf

15 http://itgl.lu/wp-content/uploads/2015/04/2012_08_30_Programme_FR_final.pdf

16 See above footnotes 5-10

17 <http://intersex.shadowreport.org/public/2017-CAT-Luxemburg-LOIPR-Zwischengeschlecht-Intersex-IGM.pdf>

18 <http://intersex.shadowreport.org/public/2018-CEDAW-Luxembourg-Intersex-StopIGM.pdf>

19 <http://intersex.shadowreport.org/public/2018-CRC-PSWG-Belgium-NGO-Zwischengeschlecht-Intersex-IGM.pdf>

A. Background: Intersex, IGM, Harmful Stereotypes and Prejudice

1. IGM: Involuntary, unnecessary and harmful practices, based on stereotypes and prejudice

In “developed countries” with universal access to paediatric health care **1 to 2 in 1000 newborns** are at risk of being submitted to medical **IGM practices**, i.e. non-consensual, unnecessary, irreversible, cosmetic genital surgeries, and/or other harmful medical treatments that **would not be considered for “normal” children**, practiced without evidence of benefit for the children concerned, but justified by societal and cultural norms and beliefs, and often **directly financed by the state** via the public health system.²⁰

In **regions without universal access to paediatric health care**, there are reports of **infanticide**²¹ of intersex children, of **abandonment**,²² of **expulsion**,²³ of **massive bullying** preventing the persons concerned from attending school (recognised by CRC as amounting to a harmful practice),²⁴ and of **murder**.²⁵

Governing State bodies, public and private healthcare providers, national and international medical bodies and individual doctors have traditionally been **framing and “treating”** healthy intersex children as **suffering from a form of disability in the medical definition**, and in need to be **“cured” surgically**, often **with openly racist, eugenic and supremacist implications**.^{26 27 28 29}

20 For references and general information, see 2016 CEDAW NGO Report France, p. 45–51,

<http://intersex.shadowreport.org/public/2016-CEDAW-France-NGO-Zwischengeschlecht-Intersex-IGM.pdf>

21 For Nepal, see CEDAW/C/NPL/Q/6, para 8(d). See also 2018 CEDAW Joint Intersex NGO Report, p. 13-14,

<http://intersex.shadowreport.org/public/2018-CEDAW-Nepal-NGO-Intersex-IGM.pdf>

For example in South Africa, see 2016 CRC South Africa NGO Report, p. 12,

<http://intersex.shadowreport.org/public/2016-CRC-ZA-NGO-Zwischengeschlecht-Intersex-IGM.pdf>

For South Africa, see also <https://mg.co.za/article/2018-01-24-00-intersex-babies-killed-at-birth-because-theyre-bad-omens>

For example in Uganda, Kenya, Rwanda, see "Baseline Survey on intersex realities in East Africa – Specific focus on Uganda, Kenya, and Rwanda" by SIPD Uganda, relevant excerpts and source:

<http://stop.genitalmutilation.org/post/Africa-Intersex-Survey-Documents-Intersex-Genital-Mutilation-Infanticide-Abandonment-Expulsion-Uganda-Kenya-Rwanda>

; for Uganda, see also 2015 CRC Briefing, slide 46,

http://intersex.shadowreport.org/public/Zwischengeschlecht_2015-CRC-Briefing_Intersex-IGM_web.pdf

For Kenya, see also <http://www.bbc.com/news/world-africa-39780214>

For Mexico, see 2018 CEDAW NGO Joint Statement, [http://stop.genitalmutilation.org/post/CEDAW70-](http://stop.genitalmutilation.org/post/CEDAW70-Mexico-Joint-Intersex-NGO-Statement-05-07-2018)

[Mexico-Joint-Intersex-NGO-Statement-05-07-2018](http://stop.genitalmutilation.org/post/CEDAW70-Mexico-Joint-Intersex-NGO-Statement-05-07-2018)

22 For example in Uganda, Kenya, Rwanda, see "Baseline Survey on intersex realities in East Africa – Specific focus on Uganda, Kenya, and Rwanda" by SIPD Uganda, relevant excerpts and source:

<http://stop.genitalmutilation.org/post/Africa-Intersex-Survey-Documents-Intersex-Genital-Mutilation-Infanticide-Abandonment-Expulsion-Uganda-Kenya-Rwanda>

For example in China, see 2015 Hong Kong, China NGO Report, p. 15,

<http://intersex.shadowreport.org/public/2015-CAT-Hong-Kong-China-NGO-BBKCI-Intersex.pdf>

23 For example in Uganda, Kenya, Rwanda, see "Baseline Survey on intersex realities in East Africa – Specific focus on Uganda, Kenya, and Rwanda" by SIPD Uganda, relevant excerpts and source:

<http://stop.genitalmutilation.org/post/Africa-Intersex-Survey-Documents-Intersex-Genital-Mutilation-Infanticide-Abandonment-Expulsion-Uganda-Kenya-Rwanda>

24 For example in Nepal (CRC/C/NPL/CO/3-5, paras 41–42), based on local testimonies, see

<http://stop.genitalmutilation.org/post/Denial-of-Needed-Health-Care-Intersex-in-Nepal-Pt-3>

25 For example in Kenya, see <https://76crimes.com/2015/12/23/intersex-in-kenya-held-captive-beaten-hacked-dead/>

26 2014 CRC NGO Report, p. 52, 69, 84, http://intersex.shadowreport.org/public/2014-CRC-Swiss-NGO-Zwischengeschlecht-Intersex-IGM_v2.pdf

27 In the WHO “World Atlas of Birth Defects (2nd Edition)”, many intersex diagnoses are listed, including “*indeterminate sex*” and “*hypospadias*”:

Both in “developed” and “developing” countries, **harmful stereotypes and prejudice** framing intersex as “**inferior**”, “**deformed**”, “**disordered**”, “**degenerated**” or a “**bad omen**” remain widespread, and to this day inform the current harmful **western medical practice**, as well as other practices including **infanticide** and **child abandonment**.

Typical forms of medical IGM include “feminising” or “masculinising”, “corrective” genital surgery, sterilising procedures, imposition of hormones (including prenatal “therapy”), forced genital exams, vaginal dilations, medical display, human experimentation, selective (late term) abortions and denial of needed health care.

Medical IGM practices are known to cause **lifelong severe physical and mental pain and suffering**,³⁰ including loss or impairment of sexual sensation, poorer sexual function, painful scarring, painful intercourse, incontinence, problems with passing urine (e.g. due to urethral stenosis after surgery), increased sexual anxieties, problems with desire, less sexual activity, dissatisfaction with functional and aesthetic results, lifelong trauma and mental suffering, elevated rates of self-harming behaviour and suicidal tendencies comparable to those among women who have experienced physical or (child) sexual abuse, impairment or loss of reproductive capabilities, lifelong dependency on daily doses of artificial hormones.

UN Treaty bodies and other human rights experts have consistently recognised IGM practices as a serious breach of international law.³¹ **UN Treaty bodies have so far issued 36 Concluding Observations condemning IGM practices.**³²

2. Intersex = variations of reproductive anatomy

Intersex persons, in the vernacular also known as hermaphrodites, or medically as persons with “*Disorders*” or “*Differences of Sex Development (DSD)*”,³³ are people born with **variations of reproductive anatomy**, or “atypical” reproductive organs, including atypical genitals, atypical sex hormone producing organs, atypical response to sex hormones, atypical genetic make-up, atypical secondary sex markers. Many intersex forms are usually detected at **birth** or earlier during **prenatal testing**, others may only become apparent at **puberty** or **later in life**.

While intersex people may face several problems, in the “developed world” the most pressing are the ongoing **Intersex Genital Mutilations**, which present a distinct and unique issue constituting significant human rights violations, with **1 to 2 in 1000 newborns** at risk of being submitted to non-consensual “genital correction surgery”.

*For more information and references, see 2016 CEDAW France NGO Report, p. 39-41.*³⁴

<http://web.archive.org/web/20160305152127/http://prenatal.tv/lecturas/world%20atlas%20of%20birth%20defects.pdf>

28 “The Racist Roots of Intersex Genital Mutilations” <http://stop.genitalmutilation.org/post/Racist-Roots-of-Intersex-Genital-Mutilations-IGM>

29 For 500 years of “scientific” prejudice in a nutshell, see 2016 CEDAW France NGO Report, p. 7, <http://intersex.shadowreport.org/public/2016-CEDAW-France-NGO-Zwischengeschlecht-Intersex-IGM.pdf>

30 See “IGM Practices – Non-Consensual, Unnecessary Medical Interventions”, *ibid.*, p. 38–47

31 **CAT, CRC, CRPD, SPT, SRT, SRSG VAC, COE, ACHPR, IACHR** (2016), “End violence and harmful medical practices on intersex children and adults, UN and regional experts urge”, <http://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=20739&LangID=E>

32 <http://stop.genitalmutilation.org/post/IAD-2016-Soon-20-UN-Reprimands-for-Intersex-Genital-Mutilations>

33 The currently still official medical terminology “**Disorders of Sex Development**” is **strongly refused by persons concerned**. See 2014 CRC NGO Report, p. 12 “Terminology”.

34 <http://intersex.shadowreport.org/public/2016-CEDAW-France-NGO-Zwischengeschlecht-Intersex-IGM.pdf>

3. Harmful Stereotypes (2): Intersex is NOT THE SAME as Transgender or LGBT

Unfortunately, there are also other, often interrelated **harmful misconceptions and stereotypes about intersex** still prevailing in public, notably if intersex is counterfactually described as being the same as or a subset of LGBT or SOGI, e.g. if intersex is misrepresented as a sexual orientation (like gay or lesbian), and/or as a gender identity, as a subset of transgender, as the same as transsexuality, or as a form of sexual orientation.

The underlying reasons for such harmful misrepresentations include **lack of awareness**, third party groups **instrumentalising intersex as a means to an end**^{35 36} for their own agenda, and State parties **trying to deflect** from criticism of involuntary intersex treatments.

Intersex persons and their organisations have spoken out clearly against instrumentalising or misrepresenting intersex issues,³⁷ maintaining that IGM practices present a **distinct and unique issue** constituting significant human rights violations, which are different from those faced by the LGBT community, and thus need to be **adequately addressed in a separate section as specific intersex issues**.

Also **human rights experts** are increasingly warning of the **harmful conflation** of intersex and LGBT.³⁸

Regrettably, **these harmful misrepresentations seem to be on the rise also at the UN**, for example in recent **UN press releases** and **Summary records** misrepresenting IGM as “*sex alignment surgeries*” (i.e. voluntary procedures on transsexual or transgender persons), IGM survivors as “*transsexual children*”, and intersex NGOs as “*a group of lesbians, gays, bisexuals, transgender and intersex victims of discrimination*”,³⁹ and again IGM survivors as “*transgender children*”,⁴⁰ “*transsexual children who underwent difficult treatments and surgeries*”, and IGM as a form of “*discrimination against transgender and intersex children*”⁴¹ and as “*sex assignment surgery*” while referring to “*access to gender reassignment-related treatments*”.⁴²

Particularly **State parties** are constantly **misrepresenting intersex and IGM as sexual orientation or gender identity issues** in an attempt to **deflect from criticism** of the serious human rights violations resulting from IGM practices, instead referring to e.g. “*gender reassignment surgery*” (i.e. voluntary procedures on transsexual or transgender persons) and “*gender assignment surgery for children*”,⁴³ “*a special provision on sexual orientation and*

35 CRC67 Denmark, <http://stop.genitalmutilation.org/post/CRC67-Intersex-children-used-as-cannon-fodder-LGBT-Denmark>

36 CEDAW66 Ukraine, <http://stop.genitalmutilation.org/post/Ukraine-Instrumentalising-Intersex-and-IGM-for-LGBT-and-Gender-Politics>

37 For references, see 2016 CEDAW France NGO Report, p. 45. <http://intersex.shadowreport.org/public/2016-CEDAW-France-NGO-Zwischengeschlecht-Intersex-IGM.pdf>

38 For example ACHPR Commissioner Lawrence Murugu Mute (Kenya), see

<http://stop.genitalmutilation.org/post/ACHPR-African-Commissioner-warns-Stop-conflating-intersex-and-LGBT>

39 CAT60 Argentina, <http://stop.genitalmutilation.org/post/UN-Press-Release-calls-IGM-survivors-transsexual-children-CATArgentina-UNCAT60>

40 CRC77 Spain, <http://stop.genitalmutilation.org/post/UN-Press-Release-mentions-genital-mutilation-of-intersex-children>

41 CRC76 Denmark, <http://stop.genitalmutilation.org/post/UN-Press-Release-calls-IGM-survivors-transsexual-children-CRC-Denmark-UNCRC67>

42 CAT/C/DNK/QPR/8, para 32

43 CRC73 New Zealand, <http://stop.genitalmutilation.org/post/NZ-to-be-Questioned-over-Intersex-Genital-Mutilations-by-UN-Committee-on-the-Rights-of-the-Child>

gender identity”, “civil registry” and “sexual reassignment surgery”⁴⁴, transgender guidelines⁴⁵ or “Gender Identity”^{46 47} when asked about IGM by e.g. Treaty bodies.

What’s more, **LGBT organisations** (including “LGBTI” organisations without actual intersex representation or advocacy) are using the ubiquitous misrepresentation of intersex = LGBT to **misappropriate intersex funding**, thus **depriving actual intersex organisations** (which mostly have no significant funding, if any) of much needed **resources**⁴⁸ and public **representation**.⁴⁹

4. Harmful Stereotypes (3): Misrepresenting Genital Mutilation as “Health Care”

An interrelated, alarming new trend is the **increasing misrepresentation of IGM as “health-care issue”** instead of a serious human rights violation, and the **promotion of “self-regulation” of IGM by the current perpetrators**^{50 51 52} – instead of effective measures to finally end the practice (as repeatedly stipulated also by this Committee).

Even worse, **Health ministries** construe UN Treaty body Concluding observations falling short of explicitly recommending legislation to criminalise or adequately sanction IGM as an **excuse for “self-regulation” promoting state-sponsored IGM practices to continue with impunity**.⁵³

44 CCPR120 Switzerland, <http://stop.genitalmutilation.org/post/Pinkwashing-of-Intersex-Genital-Mutilations-at-the-UN-CCPR120>

45 CAT56 Austria, <http://stop.genitalmutilation.org/post/Geneva-UN-Committee-against-Torture-questions-Austria-over-Intersex-Genital-Mutilations>

46 CAT60 Argentina, <http://stop.genitalmutilation.org/post/CAT60-Argentina-to-be-Questioned-on-Intersex-Genital-Mutilation-by-UN-Committee-against-Torture>

47 CRPD18 UK, <http://stop.genitalmutilation.org/post/UK-Questioned-over-Intersex-Genital-Mutilations-by-UN-Committee-on-the-Rights-of-Persons-with-Disabilities-CRPD>

48 For example in Scotland (UK), LGBT organisations have so far collected at least **£ 135,000.–** public intersex funding, while actual intersex organisations received ZERO public funding, see 2017 CRPD UK NGO Report, p. 14, <http://intersex.shadowreport.org/public/2017-CRPD-UK-NGO-Coalition-Intersex-IGM.pdf>

Typically, during the interactive dialogue with CRPD, the UK delegation nonetheless tried to sell this glaring misappropriation as “supporting intersex people”, but fortunately got called out on this by the Committee, see transcript (Session 2, 10:53h + 11:47h), <http://stop.genitalmutilation.org/post/UK-Questioned-over-Intersex-Genital-Mutilations-by-UN-Committee-on-the-Rights-of-Persons-with-Disabilities-CRPD>

49 See e.g. “Instrumentalizing intersex: ‘The fact that LGBTs in particular embrace intersex is due to an excess of projection’ - Georg Klauda (2002)”, <http://stop.genitalmutilation.org/post/Instrumentalizing-Intersex-Georg-Klauda-2002>

50 For example Amnesty (2017), see <http://stop.genitalmutilation.org/post/Amnesty-Report-fails-Intersex-Children-and-IGM-Survivors>

51 For example FRA (2015), see Presentation OHCHR Expert Meeting (2015), slide 8,

http://stop.genitalmutilation.org/public/S3_Zwischengeschlecht_UN-Expert-Meeting-2015_web.pdf

52 For example CEDAW Italy (2017), see <http://stop.genitalmutilation.org/post/Major-Setback-for-Intersex-Human-Rights-at-the-UN>

53 See for example Ministry of Health Chile (2016), <http://stop.genitalmutilation.org/post/Circular-7-step-back-for-intersex-human-rights-in-Chile>

B. IGM in Luxembourg: State-sponsored + pervasive, Gov fails to act

1. IGM practices in Luxembourg: Pervasive and unchallenged

In **Luxembourg** (see CEDAW/C/LUX/CO/6-7, paras 27-28) same as in the **neighbouring states** of *Belgium* (CRC/C/BEL/Q/5-6, para 8), *France* (CRC/C/FRA/CO/5, paras 47-48; CAT/C/FRA/CO/7, paras 32–33; CEDAW/C/FRA/CO/7-8, paras 17e-f + 18e-f), *Germany* (CAT/C/DEU/CO/5, para 20; CRPD/C/DEU/CO/1, p. 6–7, paras 37-38; CEDAW/C/DEU/CO/7-8, paras 23-24), and in **many more State parties**,⁵⁴ there are

- **no legal or other protections** in place to ensure the rights of intersex children to physical and mental integrity, autonomy and self-determination, and **to prevent IGM practices**
- **no measures** in place to ensure **data collection and monitoring** of IGM practices
- **no legal or other measures** in place to ensure the **accountability** of IGM perpetrators
- **no legal or other measures** in place to ensure **access to redress and justice** for adult IGM survivors

To this day, despite partially recognising the serious violations constituted by IGM practices,^{55 56} the **Luxembourgian government** fails to publicly acknowledge the severe pain and suffering caused by the ongoing IGM practices, let alone to “*take effective legislative, administrative, judicial or other measures*” to protect intersex children, in spite of **longstanding criticism and appeals** by intersex advocates and their organisations,⁵⁷ seconded by public bodies including the Luxembourgian **National Ethics Commission (CNE)**,⁵⁸ and **CEDAW**.⁵⁹

2. Most Common IGM Forms⁶⁰ advocated and perpetrated by Luxembourg

To this day, in Luxembourg all **forms of IGM practices remain widespread and ongoing**, persistently **advocated, prescribed and perpetrated** both in the public state funded **Children’s Hospital CHL**, as well as in **foreign Contractual Hospitals** namely in Belgium, **advocated and paid for by the State** via the **Statutory Health Insurance System** as part of the public Social Security System.

According to **public statements** by paediatric endocrinologist Dr Michael Witsch (**Centre Hospitalier de Luxembourg CHL**), in **Luxembourg intersex children are submitted to IGM practices** if parents insist⁶¹ or if the family can’t otherwise deal with their intersex child.⁶²

54 Currently we count **37 Concluding observations on IGM practices for 20 State parties in Europe, South America, Asia and Oceania**, see <http://stop.genitalmutilation.org/post/IAD-2016-Soon-20-UN-Reprimands-for-Intersex-Genital-Mutilations>

55 See proposed actions no. 2 and 3 in the 2018 LGBTI Action Plan, p. 48, https://mfamigr.gouvernement.lu/dam-assets/campagnes/personnes_intersexes/PAN-LGBTI-web-update.pdf (see also below p. 16, fn. 81)

56 See also Parliamentary Motion No. 2870 proposing “*the prohibition [...] of non-emergency and non-life-saving treatments carried out without the consent of the persons concerned*”(p. 2), <https://chd.lu/wps/portal/public/Accueil/TravailALaChambre/Recherche/RoleDesAffaires?action=doMotionDetails&id=2870> (see also below p. 16, fn. 84)

57 See above footnotes 5-15

58 See below, p. 14-15

59 CEDAW/C/LUX/CO/6-7, paras 27-28

60 For more information, see 2016 CAT France NGO Report (p. 39–43),

<http://intersex.shadowreport.org/public/2016-CAT-France-NGO-Zwischengeschlecht-Intersex-IGM.pdf>

61 "Le Quotidien" 21.03.2017, p. 2 (in French), http://kastrationsspital.ch/public/Luxembourg_LeQuotidien_Intersex_21-03-2017.pdf

German translation, <http://blog.zwischengeschlecht.info/post/2017/04/07/Ich-bin-kein-Monster-Luxemburg-IGM-Le-Quotidien>

According to public statements by Dr Yolanda Wagener, Head of Division at the **Ministry of Health**, intersex children are **also sent abroad for surgery**.⁶³ This is also confirmed by a public statement of a parent of a intersex child “Sandro”, who was sent to a “*specialised hospital in Ghent*”,⁶⁴ i.e. **UZ [University Clinic] Ghent**,⁶⁵ and was consequently submitted to **IGM 1 “masculinising” surgery** (“hypospadias repair”) at the **age of 9 months**.

This violation of extraterritorial protections by sending Luxembourgian intersex children to foreign contractual hospitals for IGM practices is even institutionalised in the “*Belgian-Luxemburg DSD network and registry*” and the “*BSGPE (Belgian Study Group for Pediatric Endocrinology) Bellux DSD group*”,⁶⁶ in 2014 renamed “*Belgian Society for Pediatric Endocrinology and Diabetology (BESPEED)*”, self-described as an association of “*8 university clinics and other medical centres in Belgium and Luxembourg*”, including the “*Clinique pédiatrique du Luxembourg*” at the “**Centre Hospitalier de Luxembourg CHL**” and the “**UZ [University Clinic] Ghent**”.⁶⁷

The “**Centre Hospitalier de Luxembourg (CHL)**” includes a “*department of paediatric surgery*” specialised in “*urological surgery*”,⁶⁸ as well as a “*department of urology*” also offering “*paediatric*” services⁶⁹ – departments known to facilitate IGM practices. The “**UZ [University Clinic] Ghent**” on the other hand is a well-known perpetrator of IGM practices which co-authored the **2016 Consensus Statement “Global Disorders of Sex Development Update**” advocating “*gonadectomy*” and other IGM practices,⁷⁰ and generally promotes IGM practices on children.^{71 72}

62 See Revue Nr. 10, 18.03.2017, p. 20 (p. 9 in PDF), http://kastrationsspital.ch/public/luxembourg_revue-10_intersex_mars_2017_scan.pdf, relevant excerpts (in German):

<http://blog.zwischengeschlecht.info/post/2017/03/22/Revue-Luxemburg-Intersex-Kinder-in-Belgien-verstummt>

63 See above footnote 61, “Le Quotidien”

64 Ibid.

65 “*A multidisciplinary DSD team exists in Ghent for this problem. The DSD team consists of doctors and medical personnel from different specialties. The paediatric surgeons perform procedures that are necessary to construct the genitals of these patients*”,

<https://www.uzgent.be/nl/zorgaanbod/mdspecialismen/kindergeneeskunde/kinderurologie/Paginas/Aandoeningen-van-de-geslachtsontwikkeling.aspx>

66 “DSDnet” (2013), Memorandum of Understanding, p. 11,

http://www.dsdnet.eu/downloads.html?file=files/downloads/BM1303_Memorandum_of_Understanding.pdf

67 <http://www.bsgpe.be/>

68 <https://kannerkliniek.chl.lu/fr/service/chirurgie-pediatrique>

69 <https://centre.chl.lu/fr/service/urologie>

70 See 2016 CEDAW NGO Report for Switzerland, p. 8, <http://intersex.shadowreport.org/public/2016-CEDAW-Swiss-NGO-Zwischengeschlecht-Intersex-IGM.pdf>

71 Piet Hoebeke (University of Ghent), “Genital construction and its timing”, presentation at the 5th I-DSD Symposium 2015, see abstract book, p. 3, http://www.gla.ac.uk/media/media_408896_en.pdf

72 See 2018 CRC PSWG Belgium NGO Report, p. 10-12, <http://intersex.shadowreport.org/public/2018-CRC-PSWG-Belgium-NGO-Zwischengeschlecht-Intersex-IGM.pdf>

3. The Treatment of Intersex Children as Harmful Practice and Violence under CRC

a) Harmful Practice (art. 24(3) and JGC No. 18) ⁷³

Article 24 para 3 CRC calls on states to abolish harmful “*traditional practices prejudicial to the health of children*”. While the initial point of reference for the term was the example of Female Genital Mutilation/Cutting (FGM/C), the term consciously wasn’t limited to FGM/C, but meant to include all forms of harmful, violent, and/or invasive traditional or customary practices.⁷⁴

This Committee has repeatedly considered IGM as a harmful practice, and the CRC/CEDAW Joint General Comment No. 18/31 on harmful practices as applicable.⁷⁵

Harmful practices (and inhuman treatment) have been identified by intersex advocates as the **most effective, well-established and applicable human rights frameworks** to eliminate IGM practices and to end the impunity of the perpetrators.⁷⁶

Conclusion, **IGM practices in Luxembourg** – as well as the **failure of the state party to enact effective legislative, administrative, social and educational measures** to eliminate them and to ensure **effective access to remedies and redress** – clearly violate **Article 24 CRC**, as well as the **CRC/CEDAW Joint General Comment No. 18/31** on harmful practices.

b) Violence against Children (art. 19 and GC No. 13) ⁷⁷

Similarly, the Committee has also considered IGM practices as violence against children, and Art. 19 and the General Comment No. 13 also offer strong provisions to combat IGM practices.

4. Luxembourgian Doctors and Government consciously dismissing Human Rights

The persistence of IGM practices in Luxembourg is a **matter of public record**, same as the **longstanding criticism and appeals by intersex persons and their organisations**,⁷⁸ and expert bodies:

In a July 2017 opinion, the **National Ethics Commission (CNE)**, despite frequently mixing up intersex and transgender, officially acknowledged:⁷⁹

“Violations of the rights of intersex persons may amount to corporal mutilation in the form of so-called ‘normalisation’ surgical interventions, without their consent, in particular when these interventions are carried out at an early age.” (p. 1)

73 For a more extensive version, see 2017 CRC Spain NGO Report, p. 12-13,

<http://intersex.shadowreport.org/public/2017-CRC-Spain-NGO-Brujula-Zwischengeschlecht-Intersex-IGM.pdf>

74 UNICEF (2007), Implementation Handbook for the Convention on the Rights of the Child, at 371

75 CRC/C/CHE/CO/2-4, paras 42-43; CRC/C/IRL/CO/3-4, paras 39-40; CRC/C/FRA/CO/5, paras 47-48; CRC/C/CHL/CO/4-5, paras 48-49; CRC/C/GBR/CO/5, paras 45-46; CRC/C/NPL/CO/3-5, paras 41-42; CRC/C/ZAF/CO/2, paras 39-40; CRC/C/NZL/CO/5, paras 25 + 15; CRC/C/DNK/CO/5, para 24; CRC/C/ESP/CO/5-6, para 24

76 Daniela Truffer, Markus Bauer / Zwischengeschlecht.org: “Ending the Impunity of the Perpetrators!” Input for Session 3: “Human Rights Standards and Intersex People – Progress and Challenges - Part 2” at “Ending Human Rights Violations Against Intersex Persons.” OHCHR Expert Meeting, Geneva 16-17.09.2015, online: http://StopIGM.org/public/S3_Zwischengeschlecht_UN-Expert-Meeting-2015_web.pdf

77 For a more extensive version with sources, see 2016 CRC UK Thematic NGO Report, p. 57,

http://intersex.shadowreport.org/public/2016-CRC-UK-NGO-Zwischengeschlecht-Intersex-IGM_v2.pdf

78 See above footnotes 9-20

79 Commission Nationale d’Éthique (2017), Avis 27, <https://cne.public.lu/dam-assets/fr/publications/avis/avis-27.pdf>

“These invasive treatments, most often without medical necessity, are performed in order to match physical appearance to the sex assigned at birth. Often carried out at an early age, in the obvious absence of the prior and fully informed consent of the person directly concerned, the best interests of the child are subordinated to the expectations of society. Parents, who are often influenced and uninformed, tend to follow the advice of the attending physician without necessarily considering the consequences of interventions on their child's well-being. People who have undergone such interventions often feel mutilated afterwards. Psychological distress due to the negative consequences of surgery should not be neglected and can lead to self-harm and suicidal behaviour.” (p. 8)

In the **2018 Concluding Observations** for Luxembourg the **Committee on the Elimination of Discrimination against Women (CEDAW)** recommended:⁸⁰

Harmful practices

27. *The Committee takes note of the plans of the State party to adopt provisions on its extraterritorial obligations with regard to the elimination of female genital mutilation and other harmful practices, in the context of its planned ratification of the Council of Europe Convention on Preventing and Combating Violence against Women and Domestic Violence (Istanbul Convention). It notes the following with concern:*

(a) Reports of the forced medical treatment, including the sterilization of and administration of contraceptives to women with disabilities, in particular women and girls with intellectual disabilities in State institutions, without their free and informed consent;

(b) The performance of medically irreversible sex reassignment surgery on intersex persons, a practice which is defined as non-consensual, unnecessary genital surgery and includes other comparable procedures that violate the physical integrity of such individuals;

(c) The lack of support for intersex persons who have undergone involuntary and medically unnecessary disfiguring surgical procedures when they were infants or children, often with irreversible consequences, resulting in significant physical and psychological suffering.

28. *In the light of joint general recommendation No. 31 of the Committee on the Elimination of Discrimination against Women/general comment No. 18 of the Committee on the Rights of the Child (2014) on harmful practices, the Committee recommends that the State party:*

(a) Take measures to enforce the provisions of the Act of 10 December 2009 regarding respect for the opinion of the patient, stop the administration of non-consensual contraception and sterilization or medical treatment, including when consent is given by a third party, and ensure that women with disabilities have equal access to sexual and reproductive health services;

(b) Specifically prohibit non-consensual sex reassignment surgery on intersex persons, develop and implement a rights-based health-care protocol for intersex children that requires medical doctors to inform intersex children about all available options and

80 CEDAW/C/LUX/CO/6-7, paras 27-28

requires their involvement in decision-making about medical interventions and the full respect of their choices;

(c) *Adopt legal provisions to provide redress to intersex persons who are victims of surgical or other medical interventions performed without their free, prior and informed consent or that of their parents.*

And a **Parliamentary Motion No. 2870** adopted in Parliament on 25.07.2018 explicitly calls for *“the prohibition, in the case of intersex issues, of non-emergency and non-life-saving treatments carried out without the consent of the persons concerned”*.⁸¹

However, **Luxembourgian paediatric doctors**, despite **openly admitting to knowledge of relevant criticisms** by intersex advocates, human rights and ethics bodies,⁸² nonetheless continue to **consciously refuse to consider any human rights concerns**, and to this day **refuse to disclose data of surgical and other interventions on intersex children**.⁸³

Also **Luxembourgian government bodies**, despite now officially calling to *“[p]rohibit medical treatments of ‘sexual normalization’ without vital urgency that are practiced without the free and informed consent of the intersex person (and therefore stop reimbursement by public health funds)”*, and to *“[e]stablish monitoring of medical interventions on intersex minors, including treatment abroad”*,⁸⁴ so far fail to take practical steps to implement these calls, but instead in practice continue to **publicly misrepresent** intersex as “a part of the LGBTI umbrella” suffering from “*discrimination*” only.^{85 86}

5. Lack of Independent Data Collection and Monitoring

With no statistics available on intersex births, let alone surgeries and costs, and **perpetrators, governments and health departments colluding to keep it that way as long as anyhow possible**, persons concerned as well as civil society **lack possibilities to effectively highlight and monitor** the ongoing mutilations. What’s more, after realising how intersex genital surgeries are increasingly in the focus of public scrutiny and debate, perpetrators of IGM practices internationally respond by suppressing data, as well as refusing to talk to journalists “on record”.

81 [https://chd.lu/wps/PA_RoleDesAffaires/FTSByteServletImpl?path=EB9E7E534DB32033589862A704416ABAAA3C512C8C8E4B3889BB0549A34257AAB974729B9C469BD7A77D04207DF6F709\\$30291BFFB798F07390307B5B5A0D19AC](https://chd.lu/wps/PA_RoleDesAffaires/FTSByteServletImpl?path=EB9E7E534DB32033589862A704416ABAAA3C512C8C8E4B3889BB0549A34257AAB974729B9C469BD7A77D04207DF6F709$30291BFFB798F07390307B5B5A0D19AC)

82 See for example CHL paediatricians Dr Michael Witsch and Dr Marianne Becker, in Reporter, 23.07.2018, <https://www.reporter.lu/operationen-an-intersex-kindern-wenn-das-geschlecht-verordnet-wird/>

83 Ibid.

84 Ministry of Family Affairs (2018), National Action Plan for the Promotion of the Rights of Lesbian, Gay, Bisexual, Transgender and Intersex People, p. 48, https://mfamigr.gouvernement.lu/dam-assets/campagnes/personnes_intersexes/PAN-LGBTI-web-update.pdf

85 See for example a press release by the Ministry for Family Affairs on occasion of Intersex Awareness Day 2018 claiming to raise awareness of intersex issues, however, it fails to even mention involuntary genital surgery and other harmful practices on intersex children, exclusively referring to “*discrimination*” instead, https://gouvernement.lu/de/actualites/toutes_actualites/communiqués/2018/10-octobre/25-cahen-campagne.html

86 See also simple language documentation on intersex issues issued by the Ministry for Family Affairs, again failing to mention involuntary genital surgery and other harmful practices on intersex children at all, but exclusively referring to “*discrimination*” instead, openly declaring (p. 4) *“The aim is a policy against discrimination. We want diversity. That’s why we support LGBTI people. LGBTI is an abbreviation for five groups: Lesbians, gays, bi-sexuals, transgender and intersex people. At first glance, these people do not belong together. Their lives are very different. But they all have the same experience: discrimination.”*, https://mfamigr.gouvernement.lu/dam-assets/campagnes/personnes_intersexes/2018-CAMPAGNE-Personnes-intersexes-Internet-Texte-Einfache-Sprache.pdf

Also in Luxembourg, there are **no statistics** available on intersex birth and on IGM practices available, although recently the **Ministry for Social Security** announced plans to start data collection in 2020.⁸⁷ **IGM doctors publicly refuse to disclose data**, while at the same time claiming IGM practices would be “strictly a thing of the past”.⁸⁸

6. Obstacles to redress, fair and adequate compensation

Also in **Luxembourg** the **statutes of limitation** prohibit survivors of early childhood IGM practices to call a court, because persons concerned often **do not find out** about their medical history until much later in life, and **severe trauma** caused by IGM Practices often prohibits them to act in time once they do.⁸⁹ So far, in Luxembourg there was **no case** of a victim of IGM practices succeeding in going to court.

The **Luxembourgian government** fails to ensure that non-consensual unnecessary IGM surgeries on minors are recognised as a form of **genital mutilation**, which would formally prohibit parents from giving “consent”. In addition, the State party **fails to initiate impartial investigations**, as well as data collection, monitoring, and disinterested research.⁹⁰ What’s more, hospitals are often **unwilling to provide full access to patient’s files**.

Conclusion, also here the current situation is clearly **not in line with Luxembourg’s obligations** under the Convention.

87 See answer by the **Minister for Social Security to Parliamentary Question No. 3946**, which admits (p. 3), “The Ministry for Health and the Ministry for Social Security do not have figures on surgical interventions carried out on intersex newborn children in Luxembourg or abroad. [...] However, as part of the hospital documentation gradually implemented under the law of 8 March 2018 on hospitals and hospital planning, this type of information is now systematically collected in hospitals. The number of diagnoses of intersex newborns, as well as the number and nature of surgical interventions performed as part of their care, will therefore be available for the compilation of national statistics from 2020 onwards, i.e. after the deployment of the provisions of the law.”

<http://www.greng.lu/sites/greng/files/20180720-3946-LORTA-SANTE-SECU-InterventionsChirurgicalesEnfantsIntersexes-QR.docx.pdf>

88 Dr Michael Witsch and Dr Marianne Becker, in Reporter (2018), see above footnote 82

89 Globally, no survivor of early surgeries **ever** managed to have their case heard in court. All relevant court cases (3 in Germany, 1 in the USA) were either about surgery of adults, or initiated by foster parents.

90 For more on this topic see 2016 CEDAW NGO Report France, p. 55:

<http://intersex.shadowreport.org/public/2016-CEDAW-France-NGO-Zwischengeschlecht-Intersex-IGM.pdf>

Intersex Genital Mutilations Human Rights Violations Of Children With Variations Of Reproductive Anatomy



NGO Report (for PSWG)
to the 5th and 6th Report of Luxembourg on the
Convention on the Rights of the Child (CRC)