

Privacy in Luxembourg: Overview

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A Q&A guide to privacy in Luxembourg.

The Q&A guide gives a high-level overview of privacy rules and principles, including what national laws regulate the right to respect for private and family life and freedom of expression; to whom the rules apply and what privacy rights are granted and imposed. It also covers the jurisdictional scope of the privacy law rules and the remedies available to redress infringement.

To compare answers across multiple jurisdictions, visit the Privacy [Country Q&A tool](#).

This Q&A is part of the global guide to data protection. For a full list of contents, please visit www.practicallaw.com/dataprotection-guide.

Legislation

1. What national laws (if any) regulate the right to respect for private and family life and freedom of expression?

Luxembourg Laws

In Luxembourg, the right to respect for private and family life and freedom of expression is guaranteed and regulated by:

- Articles 11 and 24 of the [Constitution](#) (in French).
- The [Law of 11 August 1982 on the protection of privacy](#) (in French) (Privacy Law).
- Article 14(1) of the [Law of 8 June 2004 on the freedom of expression in the media](#) (in French), as amended by [Act of 27 July 2007](#) (in French), which provides the right to privacy.

Protection of freedom of expression and privacy also comes from international and European texts that have been ratified by Luxembourg, including:

- Article 12 of the [UN Universal Declaration of Human Rights 1948](#);
- Article 8 (privacy) and Article 10 (freedom of expression) of the [Convention for the Protection of Human Rights and Fundamental Freedoms 1950](#) (European Convention on Human Rights); and
- Article 7 (privacy) and Article 11 (freedom of expression) of the [Charter of Fundamental Rights of the European Union](#).

GDPR

The EU [General Data Protection Regulation \(Regulation \(EU\) 2016/679\)](#) (GDPR) governs data protection in the European Union (EU) and applies directly to each EU member state, including Luxembourg. Luxembourg enacted the [Act of 1 August 2018 on the organization of the National Data Protection Commission and the general data protection framework](#) (Luxembourg Act), which aligns Luxembourg data protection law with the GDPR.

For more on Luxembourg data protection law, see [Country Q&A, Data Protection in Luxembourg: Overview](#).

This Q&A focuses on Luxembourg's national privacy laws and excludes a detailed discussion of the Luxembourg Act.

2. Who can commence proceedings to protect privacy?

Article 1 of Luxembourg's [Law of 11 August 1982 on the protection of privacy](#) (in French) (Privacy Law) provides that everyone has a right to respect for their private life. Any natural person who considers himself the victim of a Privacy Law violation may introduce an action to:

- Claim compensation for damage.
- Seek an interim order from the President of the court to obtain an injunction.
- Bring any violation of the Privacy Law to the attention of the judicial authorities.

For information on enforcing rights under the [Act of 1 August 2018 on the organization of the National Data Protection Commission and the general data protection framework](#), see [Country Q&A, Data Protection in Luxembourg: Overview](#).

3. What privacy rights are granted and imposed?

Although Luxembourg law does not define the right of privacy, through European Court of Human Rights case law as well as Luxembourg case law, courts commonly consider the right of privacy to include the following areas:

- Activities outside public life that are carried out in both public and private places.
- Personal information including:
 - Family, sexual, and emotional life;
 - home;
 - medical treatments and health;
 - political, philosophical, and religious beliefs;
 - hobbies; and
 - financial information.
- Secrecy of correspondence.
- Professional life.
- Freedom from harassment.

The right to privacy can be limited under certain circumstances, including when

- It conflicts with freedom of expression or freedom of the press.
- An issue is a matter of public interest, and it is necessary to disclose the facts and the identities of the parties.
- The information is related to the notoriety of a public figure.
- A person voluntarily waives his right to privacy.

However, the limitation on the right to privacy must be necessary and proportionate.

The following actions are considered privacy infringements under Luxembourg's [Law of 11 August 1982 on the protection of private life](#) (in French) (Privacy Law):

- Using a device to listen to, record, or transfer a natural person's statements made in a private sphere without their consent (Article 2(1), Privacy Law).
- Using a device to watch a natural person in a publicly inaccessible location without their consent, and, under the same conditions, stabilizing or transferring the person's image (Article 2(2), Privacy Law).
- Opening sealed correspondence without the recipient or sender's consent or using a device to read or delete the content of such correspondence (Article 2(3), Privacy Law).
- Placing a device with the intent to commit any violations of the Privacy Law (Article 3, Privacy Law).

- Any recordings or documents obtained through any of the methods set out in Privacy Law Article 2 that are knowingly kept, brought to the attention of the public or any third party, or used publicly (Article 4, Privacy Law).
- Publishing a video or word montage of a natural person without their consent, if it is not clear that image or video has been edited (Article 5, Privacy Law).
- Harassing a natural person over the phone or in writing or by any other means (Article 6, Privacy Law).

For information on rights granted under the [Act of 1 August 2018 on the organization of the National Data Protection Commission and the general data protection framework](#) relating to personal data, see [Country Q&A, Data Protection in Luxembourg: Overview: Rights of Individuals](#).

4. What is the jurisdictional scope of the privacy law rules?

Luxembourg's [Law of 11 August 1982 on the protection of private life](#) (in French) (Privacy Law) applies to any infringement committed in Luxembourg. Depending on the type of alleged infringement, individuals may initiate proceedings to protect privacy rights before the Luxembourg Data Protection Authority (CNPD) or the civil or criminal courts.

Individuals may file civil claims in Luxembourg courts when claiming violations of their privacy rights by any of the following:

- Luxembourg public bodies.
- Individuals or companies domiciled or registered in Luxembourg.
- Foreign individuals or companies if the infringement or damage took place in Luxembourg.

(See [Regulation \(EU\) 1215/2012 on jurisdiction and the recognition and enforcement of judgments in civil and commercial matters](#) (Recast Brussels Regulation).)

For information on the jurisdictional scope of the [Act of 1 August 2018 on the organization of the National Data Protection Commission and the general data protection framework](#), see [Country Q&A, Data Protection in Luxembourg: Overview: Question 5](#).

5. What remedies are available to redress the infringement of those privacy rights?

In Luxembourg, a person whose privacy rights have been or are being infringed can claim damages before both criminal and civil courts and file a criminal complaint with the State Prosecutor or investigating judge.

Under [Law of 11 August 1982 on the protection of private life](#) (in French) (Privacy Law), a judge can, without prejudice to the right to compensation for damage suffered, prescribe all measures, including confiscation or seizure, to prevent or stop an invasion of privacy. These measures may be ordered, if urgent, in summary proceedings. Therefore, damages can be awarded together with the imposition of other measures to prevent infringement. (Article 1, Privacy Law.)

Courts finding a criminal violation of the Privacy Law may impose one or both of the following sanctions:

- Imprisonment from eight days to one year.
- A fine.

(Article 2, Privacy Law.)

For a discussion of remedies available under the [Act of 1 August 2018 on the organization of the National Data Protection Commission and the general data protection framework](#) as it relates to data protection violations, see [Country Q&A, Data Protection in Luxembourg: Overview: Question 26](#).

6. Are there any other ways in which privacy rights can be enforced?

Luxembourg members of the press created a Code of Ethics (*Code de déontologie*) in 2006 to define the rights and duties of journalists and publishers. Code of Ethics Article 5(c) makes explicit reference to the protection of people's privacy and dignity.

The Press Council, which was created in 1979, is a self-regulated body with a complaints committee responsible for receiving and processing complaints of individuals concerning reports published in the media, without prejudice to the powers reserved to the National Data Protection Commission. However, the Press Council does not have the power to sanction a breach of the Code of Ethics and, to date, there is no disciplinary body competent to sanction journalists' professional misconduct.

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