

N° 8093

CHAMBRE DES DEPUTES

Session ordinaire 2022-2023

PROJET DE LOI

portant approbation de l'Accord entre le Grand-Duché de Luxembourg et le Comité International de la Croix-Rouge (CICR) sur le statut et les privilèges et immunités du CICR, fait à Luxembourg, le 1er juin 2022

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Document de dépôt

Dépôt: le 7.11.2022

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ARRETE GRAND-DUCAL DE DEPOT

Nous HENRI, Grand-Duc de Luxembourg, Duc de Nassau,

Sur le rapport de Notre Ministre des Affaires étrangères et européennes et après délibération du Gouvernement en conseil;

Arrêtons:

Article unique. Notre Ministre des Affaires étrangères et européennes est autorisé à déposer en Notre nom à la Chambre des Députés le projet de loi portant approbation de l'Accord entre le Grand-Duché de Luxembourg et le Comité International de la Croix-Rouge (CICR) sur le statut et les privilèges et immunités du CICR, fait à Luxembourg, le 1^{er} juin 2022.

Le Croisic, le 4 novembre 2022

*Le Ministre des Affaires étrangères
et européennes,*

Jean ASSELBORN

HENRI

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TEXTE DU PROJET DE LOI

Article unique.

Est approuvé le « *Agreement on the status and privileges and immunities of the International Committee of the Red Cross* », fait à Luxembourg, le 1^{er} juin 2022.

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EXPOSE DES MOTIFS

Le présent projet de loi vise à faire approuver l'Accord entre le Grand-Duché de Luxembourg et le Comité International de la Croix-Rouge (CICR) sur le statut et les privilèges et immunités du CICR, fait à Luxembourg, le 1^{er} juin 2022.

L'accord précité a pour objectif d'assurer le bon fonctionnement du CICR au Grand-Duché de Luxembourg, en reconnaissant la personnalité juridique internationale du CICR et en octroyant au CICR et à son personnel les privilèges et immunités nécessaires.

L'accord visé par le projet de loi s'inscrit dans le contexte plus large de l'action humanitaire du Luxembourg, le partenariat avec le CICR étant un des plus anciens et un des plus importants. En 2022, le CICR reste le premier partenaire humanitaire du Luxembourg non seulement en termes financiers mais aussi sur le plan stratégique. Au cours des dernières années, la collaboration avec le CICR s'est encore renforcée, y inclus dans le domaine de la transformation digitale éthique et responsable dans l'action humanitaire.

L'accord permettra au CICR d'établir une présence physique au Luxembourg, qui se composera d'un bureau et de surfaces louées dans un centre de données « Tier IV » au Luxembourg. Concernant ce dernier, un contrat de location entre le Luxembourg et le CICR déterminera les obligations des parties au contrat.

Cette délégation du CICR pour le « Cyberspace » basée au Luxembourg est un projet historique et une première mondiale, renforçant encore davantage la vocation et la réputation du Luxembourg en tant que pays innovateur et dynamique. Conformément à la volonté de l'action humanitaire luxembourgeoise d'être un catalyseur du principe fondamental de « *do no harm* » dans un environnement digital, la délégation pour le « Cyberspace » du CICR au Luxembourg visant notamment à rechercher, à développer et à tester des solutions permettant à l'organisation de renforcer la protection des personnes affectées par des conflits et autres situations de violence, permettra de soutenir concrètement les efforts humanitaires du CICR pour s'adresser aux nouveaux défis créés par la digitalisation.

La décision stratégique du CICR d'opter pour le Luxembourg en tant que pays hôte de ce projet historique et innovateur témoigne de la confiance que le CICR apporte notre pays.

De plus, le CICR étant une organisation humanitaire renommée et reconnue dans le monde entier, la présence du CICR au Luxembourg permettra de renforcer la visibilité et l'influence de notre pays, non seulement en tant que bailleur humanitaire mais surtout sur le plan politique (« *policy* »).

La présence du CICR contribuera à renforcer encore davantage l'écosystème numérique au Luxembourg, et l'attractivité du Luxembourg pour d'autres organisations internationales à la recherche de solutions innovatrices numériques.

Rejoignant un certain nombre d'institutions européennes et d'organisations internationales qui ont opté pour un centre de données « Tier IV » à Luxembourg, l'installation d'un centre de données du CICR à Luxembourg consolide le statut du Grand-Duché en tant que centre de confiance numérique international.

Ainsi, l'accord s'inscrit parfaitement dans la stratégie « Digital Lëtzebuerg », qui cherche notamment à faire du Luxembourg un centre de confiance numérique en Europe, voire dans le monde.

Commentaire des principaux articles de l'accord :

Article 2 : cet article vise à reconnaître la personnalité juridique internationale du CICR.

Article 3 : cet article garantit l'immunité de juridiction du CICR, de sa propriété et de ses avoirs.

Article 4 : cet article garantit l'inviolabilité des locaux du CICR ainsi que de sa propriété et de ses avoirs.

Articles 5, 5 bis, 5 ter et 5 quater : ces articles créent le cadre juridique nécessaire pour l'installation d'un centre de données du CICR au Luxembourg, en donnant au CICR les garanties appropriées concernant la protection et l'inviolabilité du centre de données ainsi que l'immunité des matériels et licences installés par le CICR pour opérer le centre de données.

Article 6 : cet article garantit l'inviolabilité des archives, des données, des systèmes d'informations ainsi que des matériels et licences du CICR.

Article 7 : cet article garantit la liberté des communications du CICR, ainsi que la protection de celles-ci.

Article 8 : cet article garantit la confidentialité des documents, des données et des communications du CICR.

Article 9 : cet article porte sur les responsabilités du CICR quant à la protection des données à caractère personnel.

Article 10 : cet article concerne les accords bilatéraux que le Luxembourg conclura au sujet de l'échange de la prévention, l'enquête, la détection ou la poursuite d'infractions pénales ou l'exécution de sanctions pénales. Cet article prévoit un engagement du Luxembourg d'indiquer que les données du CICR sous le présent accord n'entreront pas dans le champ d'application des accords bilatéraux précités.

Article 11 : cet article prévoit une coopération entre le CICR et le Luxembourg concernant les activités numériques hostiles.

Article 12 : cet article permet au CICR de détenir et de transférer librement des devises et d'autres avoirs financiers.

Articles 13 et 14 : ces articles portent sur l'exonération en matière de fiscalité directe et indirecte du CICR, ainsi que l'exonération du CICR en termes de droits de douane.

Article 15 : cet article permet la registration des véhicules appartenant à la délégation pour le « Cyberspace » du CICR en tant que voitures officielles.

Article 16 : cet article prévoit l'ensemble des privilèges, immunités et facilités octroyés par le Luxembourg au personnel statutaire affecté par le CICR auprès de la délégation pour le « Cyberspace » au Luxembourg (y inclus, entre autres, l'immunité de juridiction, les exonérations fiscales et douanières et la délivrance de « cartes de légitimation »). L'immunité est accordée pour les seuls actes réalisés dans l'exercice des fonctions officielles des intéressés. Le personnel statutaire du CICR ne jouit toutefois pas de l'immunité en ce qui concerne les d'infractions à la réglementation sur la circulation des véhicules automobile ou de dommages causés par un véhicule automobile leur appartenant ou circulant pour son compte. Les franchises concernant les impôts directs et indirects sont ceux dont bénéficient les fonctionnaires et agents internationaux et européens à Luxembourg.

Article 16 bis : cet article garantit l'immunité des experts appelés par le CICR d'accomplir des missions auprès de la délégation pour le « Cyberspace » au Luxembourg. L'immunité est accordée

pour les seuls actes réalisés dans l'exercice des fonctions officielles des experts. Les experts ne jouissent toutefois pas de l'immunité en ce qui concerne les d'infractions à la réglementation sur la circulation des véhicules automobile ou de dommages causés par un véhicule automobile leur appartenant ou circulant pour son compte.

Article 17 : cet article prévoit l'octroi de certains privilèges et immunités énumérés à l'article 16 aux membres de l'Assemblée du CICR et aux experts engagés par le CICR en mission temporaire au Luxembourg.

Article 21 : cet article prévoit qu'en cas de différend entre les parties émanant de l'interprétation de l'accord, tout différend fera l'objet de négociations entre les parties.

Article 22 : au cas où les négociations prévues par l'article 21 ne permettraient pas la résolution d'un différend, celui-ci sera soumis, pour décision finale, à un tribunal d'arbitrage composé de trois arbitres.

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FICHE D'EVALUATION D'IMPACT

Mesures législatives et réglementaires

Intitulé du projet:	Projet de loi portant approbation de l'Accord entre le Grand-Duché de Luxembourg et le Comité International de la Croix-Rouge (CICR) sur le statut et les privilèges et immunités du CICR, fait à Luxembourg, le 1^{er} juin 2022
Ministère initiateur:	Ministère des Affaires étrangères et européennes
Auteur:	Max Lamesch / Catherine Kayser / Luc Scholtes
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Objectif(s) du projet:	L'accord précité a pour objectif de créer le cadre juridique nécessaire au bon fonctionnement du CICR au Grand-Duché de Luxembourg, en reconnaissant la personnalité juridique internationale du CICR et en octroyant au CICR et à son personnel les privilèges et immunités nécessaires. L'accord permettra au CICR d'établir une présence physique au Luxembourg, qui se composera d'un bureau et de surfaces louées dans un centre de données « Tier IV » au Luxembourg.
Autre(s) Ministère(s)/Organisme(s)/Commune(s)impliqué(e)(s):	Ministère de la Digitalisation ; Ministère d'Etat ; Ministère des Finances ; Ministère de la Justice
Date:	16.06.2022

Mieux légiférer

1. Partie(s) prenante(s) (organismes divers, citoyens, ...) consultée(s): Oui Non ¹
 Si oui, laquelle/lesquelles:
 Remarques/Observations:

¹ Double-click sur la case pour ouvrir la fenêtre permettant de l'activer

2. Destinataires du projet:
- Entreprises/Professions libérales: Oui Non
 - Citoyens: Oui Non
 - Administrations: Oui Non
3. Le principe « Think small first » est-il respecté? Oui Non N.a.²
(c.à.d. des exemptions ou dérogations sont-elles prévues suivant la taille de l'entreprise et/ou son secteur d'activité?)
Remarques/Observations:
4. Le projet est-il lisible et compréhensible pour le destinataire? Oui Non
Existe-t-il un texte coordonné ou un guide pratique, mis à jour et publié d'une façon régulière? Oui Non
Remarques/Observations:
5. Le projet a-t-il saisi l'opportunité pour supprimer ou simplifier des régimes d'autorisation et de déclaration existants, ou pour améliorer la qualité des procédures? Oui Non
Remarques/Observations:
6. Le projet contient-il une charge administrative³ pour le(s) destinataire(s)? (un coût imposé pour satisfaire à une obligation d'information émanant du projet?) Oui Non
Si oui, quel est le coût administratif approximatif total? (nombre de destinataires x coût administratif⁴ par destinataire)
7. a) Le projet prend-il recours à un échange de données inter-administratif (national ou international) plutôt que de demander l'information au destinataire? Oui Non N.a.
Si oui, de quelle(s) donnée(s) et/ou administration(s) s'agit-il?
- b) Le projet en question contient-il des dispositions spécifiques concernant la protection des personnes à l'égard du traitement des données à caractère personnel⁵? Oui Non N.a.
Si oui, de quelle(s) donnée(s) et/ou administration(s) s'agit-il?
8. Le projet prévoit-il:
- une autorisation tacite en cas de non réponse de l'administration? Oui Non N.a.
 - des délais de réponse à respecter par l'administration? Oui Non N.a.
 - le principe que l'administration ne pourra demander des informations supplémentaires qu'une seule fois? Oui Non N.a.

2 N.a.: non applicable.

3 Il s'agit d'obligations et de formalités administratives imposées aux entreprises et aux citoyens, liées à l'exécution, l'application ou la mise en oeuvre d'une loi, d'un règlement grand-ducal, d'une application administrative, d'un règlement ministériel, d'une circulaire, d'une directive, d'un règlement UE ou d'un accord international prévoyant un droit, une interdiction ou une obligation.

4 Coût auquel un destinataire est confronté lorsqu'il répond à une obligation d'information inscrite dans une loi ou un texte d'application de celle-ci (exemple: taxe, coût de salaire, perte de temps ou de congé, coût de déplacement physique, achat de matériel, etc...).

5 Loi modifiée du 2 août 2002 relative à la protection des personnes à l'égard du traitement des données à caractère personnel (www.cnpd.lu)

9. Y a-t-il une possibilité de regroupement de formalités et/ou de procédures (p. ex. prévues le cas échéant par un autre texte)? Oui Non N.a.
Si oui, laquelle:
10. En cas de transposition de directives européennes, le principe « la directive, rien que la directive » est-il respecté? Oui Non N.a.
Sinon, pourquoi?
11. Le projet contribue-t-il en général à une:
a) simplification administrative, et/ou à une Oui Non
b) amélioration de la qualité réglementaire? Oui Non
Remarques/Observations:
12. Des heures d'ouverture de guichet, favorables et adaptées aux besoins du/des destinataire(s), seront-elles introduites? Oui Non N.a.
13. Y a-t-il une nécessité d'adapter un système informatique auprès de l'Etat (e-Government ou application back-office)? Oui Non
Si oui, quel est le délai pour disposer du nouveau système?
14. Y a-t-il un besoin en formation du personnel de l'administration concernée? Oui Non N.a.
Si oui, lequel?
Remarques/Observations:

Egalité des chances

15. Le projet est-il:
– principalement centré sur l'égalité des femmes et des hommes? Oui Non
– positif en matière d'égalité des femmes et des hommes? Oui Non
Si oui, expliquez de quelle manière:
– neutre en matière d'égalité des femmes et des hommes? Oui Non
Si oui, expliquez pourquoi:
– négatif en matière d'égalité des femmes et des hommes? Oui Non
Si oui, expliquez de quelle manière:
16. Y a-t-il un impact financier différent sur les femmes et les hommes? Oui Non N.a.
Si oui, expliquez de quelle manière:

Directive « services »

17. Le projet introduit-il une exigence relative à la liberté d'établissement soumise à évaluation⁶? Oui Non N.a.
Si oui, veuillez annexer le formulaire A, disponible au site Internet du Ministère de l'Economie:
www.eco.public.lu/attributions/dg2/d_consommation/d_march_int_rieur/Services/index.html

⁶ Article 15, paragraphe 2 de la directive « services » (cf. Note explicative, p. 10-11)

18. Le projet introduit-il une exigence relative à la libre prestation de services transfrontaliers⁷? Oui Non N.a.

Si oui, veuillez annexer le formulaire B, disponible au site Internet du Ministère de l'Economie:

www.eco.public.lu/attributions/dg2/d_consommation/d_march_int_rieur/Services/index.html

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FICHE FINANCIERE

conformément à l'article 79 de la loi du 8 juin 1999 sur le budget, la comptabilité et la trésorerie de l'État.

Le projet de loi ne porte que sur les privilèges et immunités et n'engendre pas de dépense à la charge du budget de l'État.

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TEXTE DE L'ACCORD

AGREEMENT

on the status and privileges and immunities of the International Committee of the Red Cross between the Grand Duchy of Luxembourg and the International Committee of the Red Cross

The Grand Duchy of Luxembourg

(hereinafter Luxembourg) represented by Mr. Franz Fayot, Minister for Development Cooperation and Humanitarian Affairs;

and

The International Committee of the Red Cross

(hereinafter the ICRC), represented by Mr. Peter Maurer, President;

together referred to as "Parties" and individually as "Party";

Considering the work done by the ICRC worldwide in providing without discrimination protection and assistance to persons affected by armed conflicts or other situations of violence with a view to relieving human suffering;

Noting the ICRC's mandate enshrined in the 1949 Geneva Conventions and their 1977 Additional Protocols, to which Luxembourg is a party, the Statutes of the International Red Cross and Red Crescent Movement, and the Resolutions of the International Conferences of the Red Cross and Red Crescent;

Considering that, in fulfilling its humanitarian mandate, the ICRC is increasingly engaged in the provision of digital services to persons affected by armed conflict and other situations of violence globally;

Bearing in mind the interests of Luxembourg and the wish expressed by the ICRC to establish a delegation to carry out its mandate and humanitarian tasks particularly in the cyber paradigm;

⁷ Article 16, paragraphe 1, troisième alinéa et paragraphe 3, première phrase de la directive « services » (cf. Note explicative, p. 10-11)

Having regard to the Memorandum of Understanding (MoU) between the Government of Luxembourg and the ICRC, signed on 27 January 2022;

Responding to the need for the ICRC to acquire adequate privileges and immunities under international and national law to operate its Delegation for Cyberspace based in Luxembourg in full conformity with its fundamental principles of humanity, neutrality, impartiality and independence and its standard working modalities, in particular confidentiality;

Intending to specify the means for effective cooperation between the Parties in the establishment and operation of the Delegation for Cyberspace based in Luxembourg;

Recalling that in order to implement its humanitarian mandate, the ICRC carries out its activities in full conformity with its fundamental principles of humanity, neutrality, impartiality and independence and its standard working modalities, in particular confidentiality;

Recalling that the ICRC is the sole entity to enjoy, under international law, a privilege of non-disclosure of information relating to the work of the ICRC for purposes of judicial proceedings;

Considering that in the course of the implementation of its humanitarian mandate, the ICRC processes personal data in a manner consistent with the internationally recognised standards on data protection;

AGREE AS FOLLOWS:

Article 1

Definitions

For the purposes of this Agreement:

- (a) “the Data Centre” shall mean the part of a facility located in Luxembourg and provided through a lease agreement by Luxembourg or directly rented from a local service provider, and used to host Data and Information Systems, as well as the Equipment and Licences;
- (b) “the Data and Information Systems” shall mean assets that are stored and processed on the Equipment and associated components, such as telecommunications and storage systems. It includes software and solutions installed on the Equipment as well as the data processed and stored therein;
- (c) “the Equipment and Licences” shall mean the assets used for the storing and processing of Data and Information Systems and associated components, such as telecommunications and storage systems. This includes assets such as computers and servers and racks, virtual machines, network devices like routers and switches, cabling and patching and power distribution unit, and Virtual Private Networks. When the Data Centre provided by Luxembourg, those assets will be agreed upon by the “Centre des technologies de l’information de l’Etat (CTIE)” for Luxembourg and the ICRC;
- (d) “the ICRC Cyber Infrastructure” shall mean the Data Centre used by the ICRC, as well as all Data and Information Systems, and all Equipment and Licenses in the Data Centre as well as of the delegation;
- (e) “Authorised Representative” shall mean any natural person who has received a written mandate from one of the Parties to this Agreement to act on their behalf in relation to the access to the Data Centre;
- (f) “Members” shall mean all persons appointed or engaged to work for the ICRC in their delegation in Luxembourg, excluding Experts;
- (g) “Expert” shall mean any individual providing services to the ICRC under contractual arrangements between the individual and the ICRC or between an entity and the ICRC;
- (h) “Family” shall mean, with respect to any person, the spouse or registered partner (of whatever sex) and dependent children of such person forming part of the latter’s household.

*Article 2****Status and legal personality***

1. The status of the ICRC shall be that of an international intergovernmental organisation with international legal personality. Its treatment shall in any case be not less favourable than that received by an international intergovernmental organisation.
2. Luxembourg recognises the legal personality of the ICRC, including but not limited to, its capacity to contract obligations, institute legal proceedings and acquire rights, and acquire and dispose of movable and immovable property.

*Article 3****Immunity of the ICRC, its property and assets***

The ICRC, its property and assets, wherever located and by whomsoever held, shall enjoy immunity from any form of judicial, administrative or other legal process, except to the extent that the ICRC has expressly waived its immunity in writing in a particular case.

*Article 4****Inviolability of ICRC premises, property and assets***

1. The premises of the ICRC by whomsoever they may be owned, shall be inviolable.
2. The property and assets of the ICRC, wherever located and by whomsoever held, shall be equally inviolable and immune from search, requisition, confiscation, expropriation or any other form of interference, whether by executive, judicial, administrative or legislative action. In particular, Luxembourg shall refrain from interfering with the ICRC's premises, property and assets by cyber means.

*Article 5****Provision of the Data Centre***

1. Where the Data Centre used by the ICRC is provided by Luxembourg, it shall be provided in full working condition for the purpose of hosting Data and Information Systems from the ICRC.
2. Where the Data Centre used by the ICRC is provided by Luxembourg, the latter shall make available the Data Centre to the ICRC for the lease cost as set out in the conditions agreed upon by the competent authorities of the Parties.
3. Where the Data Centre used by the ICRC is provided by Luxembourg, the latter shall provide access to the Data Centre to the Authorised Representative of the ICRC.
4. The ICRC shall notify Luxembourg of its Authorised Representative for the implementation of this Agreement.

*Article 5 bis****Inviolability of the Data Centre***

1. The Data Centre used by the ICRC shall be inviolable and thus exempt from search, requisition, attachment or execution.
2. No official or person exercising any public authority, whether administrative, judicial, military or police of Luxembourg shall enter the premises of the Data Centre used by the ICRC without the prior

approval of the authorised representative of the ICRC. Such approval shall be presumed in case of fire or other emergencies that require immediate protective measures and could constitute a danger for safety.

Article 5 ter

Protection of the Data Centre

Where the Data Centre used by the ICRC is provided by Luxembourg, the latter shall take all appropriate measures to protect the Data Centre used by the ICRC against any intrusion or damage within the territory of Luxembourg. The measures are considered appropriate if they meet the same level of protection as the protection that Luxembourg affords its own data centres.

Article 5 quater

Immunity of the equipment and licences

The Equipment and Licences required to operate the Data Centre used by the ICRC and put in place on the premises of the Data Centre shall be regarded as assets of the ICRC and shall enjoy immunity from every form of legal process.

Article 6

Inviolability of archives

1. The ICRC's archives, including all documents and data (including electronic documents), as well as all Data and Information Systems, and all Equipment and Licences, which belong to, are used or held by the ICRC, shall be inviolable wherever located. This includes data held in or otherwise processed through servers, server rooms, and any other device containing data hosted by the ICRC.
2. The archives shall be exempt from search, requisition, attachment or execution. Luxembourg shall refrain from interfering with the ICRC's archives by executive, administrative, judicial or legislative or any other action, including by cyber means.

Article 7

Communications

1. The ICRC shall be free to use, for official purposes and without any interference, the means of communication it deems most appropriate, including messages in code, cipher or otherwise encrypted, particularly when communicating with ICRC headquarters in Geneva and its offices around the world, with other international agencies and organisations, with government departments, and with bodies corporate or private individuals. This includes all communications and data flows to or from the ICRC Cyber Infrastructure, as well as all communications and data flows processed on behalf of the ICRC through third parties in the territory of Luxembourg.
2. The ICRC shall have the right to purchase and install on its premises all types of telecommunication equipment and to use mobile equipment, including satellite and tracking devices, within the national territory. However, the purchase and installation of satellite and tracking devices within the national territory require prior notification by the ICRC to Luxembourg.
3. To the extent necessary to provide services to the ICRC, the ICRC shall use the frequencies assigned to it for this purpose by the competent national authority, in accordance with relevant international instruments, including Resolution No. 10 (Rev.WRC-2000) of the International Telecommunication Union.
4. In all matters relating to official communications, the ICRC shall enjoy treatment not less favourable than that accorded to intergovernmental organisations or diplomatic missions.

5. ICRC communications, including in the form of data in transit, shall be inviolable and thereby free from interference, including interception.
6. The ICRC shall have the right to dispatch and receive correspondence or any other documents, data or items by courier or in sealed bags, which shall have the same immunities and privileges as diplomatic courier and bags, provided these couriers and bags bear visible external marks of their character and contain only documents, data or items intended for official use.

Article 8

Confidentiality of documents, data and communications

Given the ICRC's privilege of non-disclosure under international law, Luxembourg undertakes to respect the confidentiality of ICRC documents, data and communications, as well as the content and records of its communications with the ICRC. Such respect includes neither divulging their content to any person or entity other than the concerned authorities, nor permitting their disclosure or use in judicial, administrative or any other legal proceedings, without prior written consent of the ICRC.

Article 9

Protection of personal data

1. The processing of personal data by the ICRC shall be covered by the privileges and immunities foreseen in the present Agreement. In particular, the ICRC processes personal data in accordance with the ICRC Rules on Personal Data Protection; the ICRC's data processing is supervised by the ICRC Data Protection Office; and an effective remedy is ensured through the ICRC Independent Data Protection Control Commission.
2. The processing of data necessary to enable the ICRC to perform its humanitarian mandate established in the Geneva Conventions of 1949 and its Additional Protocols of 1977, to which Luxembourg is a Party, and the Statutes of the International Red Cross and Red Crescent Movement adopted by the Resolution of the International Conference of the Red Cross and Red Crescent, shall be deemed to be carried out for important grounds of public interest.
3. The ICRC shall exclusively ensure the respect of and be able to demonstrate compliance with ICRC Rules on Personal Data Protection for its processing activities, including by its processors and sub-processors as far as the ICRC is the controller.

Article 10

Agreements of Luxembourg with third states for the provision and exchange of data

Should Luxembourg negotiate and enter into agreements with other States for the exchange or provision of data in the framework of prevention, investigation, detection or prosecution of criminal offences or the execution of criminal penalties, Luxembourg will commit to clearly indicating that ICRC data covered by this Agreement as being outside the scope of such agreements.

Article 11

Cooperation with the ICRC in case of adverse cyber operations

1. If Luxembourg becomes aware of new trends concerning threats, including new types of malware and nefarious cyber operations that may affect adversely directly or indirectly the ICRC Cyber Infrastructure, Luxembourg, to the extent it has requisite knowledge, shall notify the ICRC of such threats without undue delay.
2. If Luxembourg becomes aware that the ICRC Cyber Infrastructure is about to or is being adversely affected, directly or indirectly, by a cyber operation, Luxembourg shall notify the ICRC of the operation without undue delay.

3. If the ICRC Cyber Infrastructure has become subject to a cyber operation adversely affecting the ICRC directly, Luxembourg shall provide the ICRC with the information about this cyber operation available to it.
4. The scope of the cooperation is limited to the ICRC Cyber Infrastructure hosted on the territory of Luxembourg.
5. A procedure for the exchange of information shall be established and implemented in a subsequent agreement in respect of the potentially sensitive nature of the information shared, of national and international agreements, and in compliance with national and European Union legislation. Any exchange of information on the part of ICRC is subject to its standard working modality of confidentiality.

Article 12

Financial resources

1. The ICRC shall have the right to hold national or foreign currency and other financial assets, and to operate accounts in any currency, without being subject to any financial controls or moratoria of any kind, without prejudice to the banking regulations of the Host Country, including rules related to anti-corruption, anti-money laundering and countering the financing of terrorism and any other related legal framework, including international humanitarian law.
2. The ICRC shall have the right freely to transfer funds in national or foreign currency to, from and within Luxembourg, and to convert its assets freely into other currencies at the most favourable exchange rate at the time of the conversion without prejudice to the Host Country banking regulations.

Article 13

Exemption from taxes

1. The ICRC and its assets, income and property shall be exempt from all direct taxes, except for dues that constitute charges for public utility services.
2. Revenues allocated to the ICRC shall be exempt from any Luxembourgish withholding tax.
3. The ICRC shall be exempt from all indirect taxes, in particular, those in connection with the procurement or provision of goods and services intended for ICRC official use, including for assistance programmes within the country or in another country. Luxembourg shall make appropriate arrangements for the exemption, including remission or reimbursement of such taxes.

Article 14

Exemption from customs duties

The ICRC shall be exempt from customs duties, import duties and charges having equivalent effect and from all taxes and restrictions on the import, export or transit through Luxembourg of all goods and materials (including ICRC publications and audio-visual materials) intended for official use and/or for ICRC assistance programmes within Luxembourg or in another country. It is understood, however, that goods and materials imported under such exemptions will not be sold in Luxembourg except under conditions agreed with Luxembourg.

Article 15

Vehicle registration

The Government shall authorise and facilitate the registration of the vehicles of the ICRC Delegation in Luxembourg as official vehicles.

*Article 16****Status of members of the delegation***

1. Members of the ICRC delegation and their respective Family shall have the same status as that accorded to the members of international organisations in Luxembourg.
2. They shall enjoy immunity from legal proceedings in respect of acts performed by them in their official capacity, including their words spoken or written. They shall continue to enjoy this immunity even after they have left the service of the delegation, from any form of judicial or administrative process, including personal arrest or detention, seizure of their personal baggage, and from being called as a witness or being required to give evidence. This immunity shall not apply to the above persons in the case of motor traffic offences committed by them or in the case of damage caused by a motor vehicle belonging to or driven by them.
3. Their data, manuscripts and documents shall be inviolable.
4. Together with their respective Family, they shall not be subject to immigration restrictions or to formalities for the registration of aliens. To the extent possible, they should be exempt from all immigration fees and restrictions and alien registration and national service obligations. All applications for travel documents, visas or other necessary certificates made by Members and their respective Family, shall be dealt with by Luxembourg as speedily as possible.
5. They shall enjoy the right to import free of duty their furniture and effects at the time of first taking up their post in Luxembourg, and the right to sell and re-export free of duty their furniture and effects on termination of their duties in Luxembourg, subject in either case to the conditions considered to be necessary by Luxembourg. They shall have the right to import free of duty a motor car for their personal use, acquired either in the state of their last residence or in the state of which they are nationals on the terms ruling in the home market in that state, or to re-export it free of duty, subject in either case to the conditions considered to be necessary by Luxembourg.
6. In the event of armed conflict or other emergencies, they shall be granted the necessary facilities to leave the country, if they wish to do so, by the means they consider to be safest and quickest.
7. They shall benefit from the same privileges in respect of exchange facilities as are accorded to the members of international organisations.
8. Members of the ICRC delegation shall be exempt from all taxes on salaries, allowances and other emoluments paid by the ICRC.
9. The members of the respective Family who accompany Members of the ICRC delegation shall be allowed to work in Luxembourg.
10. The ICRC shall inform the Ministry of Foreign and European Affairs of Luxembourg of the names, titles and functions of staff working in Luxembourg.
11. At the request of the ICRC, Luxembourg shall issue to all ICRC staff working and residing in Luxembourg, as well as to their respective Family, following the notification of their appointment, a card denominated "carte de legitimisation".
12. The Members of the delegation undertake to respect the laws and regulations in force in Luxembourg from the moment they arrive in the country and shall benefit from their protection.
13. They shall enjoy freedom of movement and travel to, from and throughout the territory of Luxembourg.

*Article 16 bis****Status of experts***

1. Experts of the ICRC delegation shall enjoy immunity from personal arrest or detention and immunity from legal proceedings, including immunity from being called as a witness or being required to

give evidence, in respect of acts performed by them in the performance of their official functions on behalf of the ICRC, including their words spoken or written (this immunity from legal process shall not apply to the above persons in the case of motor traffic offences committed by them or in case of damage caused by a motor vehicle belonging to or driven by them). This immunity shall continue notwithstanding that the persons concerned are no longer under contractual arrangement with the ICRC.

2. The ICRC shall inform the Ministry of Foreign and European Affairs of Luxembourg of the names, titles and functions of the Experts contracted by the ICRC.

Article 17

Temporary missions

Members of the ICRC Assembly and staff, as well as Experts contracted by the ICRC, who are on temporary mission in Luxembourg, shall benefit from the privileges and immunities set forth in Article 16, paragraphs 2, 3, 4, 7, 8, 12, and 13.

Article 18

Identity document and commission

Members of the delegation and ICRC representatives or staff on temporary mission shall hold a document called “Identity document and commission”, attesting to the bearer’s identity and to his/her status as an ICRC representative or staff member.

Article 19

Co-operation with the host country

1. The ICRC shall co-operate with the authorities at all times with a view to preventing any form of abuse of the privileges, immunities and facilities provided for in this Agreement.

2. The ICRC may waive any immunity, in any case where, in its sole opinion, the immunity would impede the course of justice and can be waived without prejudice to the interests of the ICRC. Such waiver shall only be valid when given in writing by the President of the ICRC or any person or organ to whom he or she has delegated that authority.

Article 20

Interpretation

1. This Agreement shall be interpreted in the light of its primary objectives, which are to enable the ICRC to assume its responsibilities, to carry out its activities and to implement its programmes, in full conformity with its internationally recognised mandate and its fundamental principles of humanity, neutrality, impartiality and independence.

2. Any interpretation of international law provisions affecting the ICRC, including in cyber operations, shall be driven by the respect of the ICRC’s impartiality, neutrality, and independence.

Article 21

Settlement of disputes by negotiation

1. Any dispute between the Parties to this Agreement arising out of the interpretation or application of this Agreement shall be submitted to negotiation between the Parties.

2. The Parties shall bear in mind the national interests of Luxembourg and the interests of the ICRC related to its activities, mandate and mission. They will do everything possible to see that disputes are

settled in good faith and equitably, and with the discretion essential to continued good relations between the Parties.

Article 22

Arbitration

1. Should the above-mentioned negotiations fail, the dispute shall be submitted for final decision to an arbitral tribunal made up of three arbitrators, one to be named by the President of the ICRC, another by Luxembourg and the third by the Parties or, failing agreement by them, by the President of the International Court of Justice. That third arbitrator shall be the President of the tribunal.
2. Unless the Parties otherwise agree, the arbitral tribunal shall determine its own procedure and the expenses shall be shared equally between the Parties, unless the tribunal decided otherwise.
3. The arbitral tribunal, which shall decide by a majority of votes, shall reach a decision on the dispute on the basis of the provisions of the present Agreement and the applicable rules of international law. The decision of the tribunal so constituted shall be final and binding on the parties to the dispute.

Article 23

Amendments to the present agreement

The provisions of the present Agreement may be amended at any time by mutual written agreement of the Parties thereto.

Article 24

Complementary agreements

Luxembourg and the ICRC may agree to conclude complementary agreements.

Article 25

Entry into force

The present agreement, which constitutes an international treaty, and any amendments made thereto, shall enter into force on the date on which Luxembourg notified the ICRC of the completion of the procedure provided for in its constitution for the ratification or amendment of international treaties.

Article 26

Termination

1. Luxembourg and the ICRC may terminate the present agreement by notifying in writing the other Party with a minimum of six months' notice; after this period, the present agreement shall cease to have effect.
2. After the termination of the agreement, the archives, the Equipment, and the Licenses of the ICRC shall only be handed over to the Authorised Representative of the ICRC. If the Authorised Representative of the ICRC is not possible to identify, Luxembourg shall treat the archives, the Equipment, and the Licenses of the ICRC with the same level of protection as its own archives and shall only hand them on to a legal representative of the ICRC.

Article 27

Originals and depository

The present agreement shall consist of duplicate originals in English, one of which shall be deposited with Luxembourg and one of which shall be deposited with the ICRC.

IN WITNESS WHEREOF, the Parties hereto have signed this Agreement:

DONE this 1st day of June 2022 in Luxembourg.

For the Grand Duchy of Luxembourg

Mr. Franz FAYOT

*Minister for Development Cooperation
and Humanitarian Affairs*

*For the International Committee
of the Red Cross*

Mr. Peter MAURER

President