



**Convention against Torture  
and Other Cruel, Inhuman  
or Degrading Treatment  
or Punishment**

Distr.: General  
16 March 2020  
English  
Original: French  
English, French and Spanish only

---

**Committee against Torture**

**Eighth periodic report submitted by Luxembourg  
under article 19 of the Convention pursuant to the  
simplified reporting procedure, due in 2019\*\***

[Date received: 16 May 2019]

---

\* Reissued for technical reasons on 7 July 2020.  
\*\* The present document is being issued without formal editing.



## Contents

	<i>Page</i>
I. Introduction .....	4
II. Replies to the issues raised in the list of issues prior to reporting (CAT/C/LUX/QPR/8) .....	4
A. Reply to the issue raised in paragraph 2 .....	4
B. Reply to the issue raised in paragraph 2 (a) .....	4
C. Reply to the issue raised in paragraph 2 (b).....	5
D. Reply to the issue raised in paragraph 2 (c) .....	5
E. Reply to the issue raised in paragraph 2 (d).....	6
F. Reply to the issue raised in paragraph 3 (a) .....	6
G. Reply to the issue raised in paragraph 3 (b).....	7
H. Reply to the issue raised in paragraph 3 (c) .....	9
I. Reply to the issue raised in paragraph 4 .....	10
J. Reply to the issue raised in paragraph 5 (a) .....	13
K. Reply to the issue raised in paragraph 5 (b).....	13
L. Reply to the issue raised in paragraph 5 (c) .....	15
M. Reply to the issue raised in paragraph 5 (d).....	16
N. Reply to the issue raised in paragraph 5 (e) .....	17
O. Reply to the issue raised in paragraph 6 (a) .....	17
P. Reply to the issue raised in paragraph 6 (b).....	18
Q. Reply to the issue raised in paragraph 6 (c) .....	18
R. Reply to the issue raised in paragraph 6 (d).....	19
S. Reply to the issue raised in paragraph 7 .....	19
T. Reply to the issue raised in paragraph 8 .....	19
U. Reply to the issue raised in paragraph 9 .....	20
V. Reply to the issue raised in paragraph 10 (a) .....	21
W. Reply to the issue raised in paragraph 10 (b).....	22
X. Reply to the issue raised in paragraph 10 (c) .....	24
Y. Reply to the issue raised in paragraph 10 (d).....	24
Z. Reply to the issue raised in paragraph 11 (a) .....	24
AA. Reply to the issue raised in paragraph 11 (b).....	26
AB. Reply to the issue raised in paragraph 11 (c) .....	26
AC. Reply to the issue raised in paragraph 12 (a) .....	26
AD. Reply to the issue raised in paragraph 12 (b).....	26
AE. Reply to the issue raised in paragraph 12 (c) .....	26
AF. Reply to the issue raised in paragraph 12 (d).....	26
AG. Reply to the issue raised in paragraph 13 (a) .....	27
AH. Reply to the issues raised in paragraph 13 (b) and (c) .....	28
AI. Reply to the issue raised in paragraph 14 .....	29

---

AJ. Reply to the issue raised in paragraph 15 (a) .....	29
AK. Reply to the issue raised in paragraph 15 (b) .....	30
AL. Reply to the issue raised in paragraph 15 (c) .....	30
AM. Reply to the issue raised in paragraph 16 .....	30
AN. Reply to the issue raised in paragraph 17 .....	31
AO. Reply to the issue raised in paragraph 18 (a) .....	32
AP. Reply to the issue raised in paragraph 18 (b) .....	32
AQ. Reply to the issue raised in paragraph 19 .....	32
AR. Reply to the issue raised in paragraph 20 .....	32
AS. Reply to the issue raised in paragraph 21 .....	32
III. General information on the national human rights situation, including new measures and developments relating to the implementation of the Convention .....	34
AT. Reply to the issue raised in paragraph 22 .....	34

## I. Introduction

1. The Grand Duchy of Luxembourg has the honour of submitting to the Committee against Torture its eighth periodic report under article 19 of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment.
2. The present report has been prepared in accordance with the Committee's general guidelines regarding the form and contents of periodic reports (CAT/C/14/Rev.1) on the basis of the Committee's list of issues, as set out in document CAT/C/LUX/QPR/8. A number of ministries and agencies have contributed to this report.
3. The Ombudsman and the Advisory Commission on Human Rights have submitted statistics on complaints of torture and ill-treatment received by their services. Non-governmental human rights organizations and national human rights institutions were briefed on the drafting process at a series of consultation meetings held with the Interministerial Committee on Human Rights.

## II. Replies to the issues raised in the list of issues prior to reporting (CAT/C/LUX/QPR/8)

### A. Reply to the issue raised in paragraph 2

4. Bill No. 6758 was adopted pursuant to the Act of 8 March 2017 on the Strengthening of Procedural Guarantees in Criminal Cases.<sup>1</sup>

### B. Reply to the issue raised in paragraph 2 (a)

5. The new article 3-6 of the Code of Criminal Procedure transposes Directive 2013/48/EU of the European Parliament and of the Council of 22 October 2013 on the right of access to a lawyer in criminal proceedings and in European arrest warrant proceedings, and on the right to have a third party informed upon deprivation of liberty and to communicate with third persons and with consular authorities while deprived of liberty.
6. Article 3-6 defines the right to legal counsel and sets out the assistance that may be provided at each stage of the proceedings by the relevant authorities: "Such assistance shall be provided without undue delay to persons deprived of their liberty who are detained on the basis of article 39 or on the execution of a warrant for their arrest."
7. Paragraphs 2 to 5 of article 3-6 establish the right to legal counsel:
  - (2) If the lawyer appointed by the persons referred to in paragraph 1 cannot be contacted or refuses to assist them, or if such persons are unable to appoint a lawyer, a lawyer shall, without undue delay, be chosen and appointed ex officio by the criminal investigation officer, the public prosecutor, the investigating judge or the president of the investigating court of inquiry or trial court on the basis of duty rosters drawn up by the President of the Bar for the benefit of investigating offices, public prosecutor's offices and the Grand Ducal police force pursuant to article 37 (4) of the amended Act of 10 August 1991 on the Legal Profession.
  - (3) A person's right to legal counsel includes the right to meet and communicate with the lawyer representing him or her, including before he or she is questioned.
  - (4) The right to legal counsel includes the right to be assisted during questioning by an officer or agent of the criminal investigation police or an investigating judge. When the questioning has concluded, the lawyer may, through the criminal investigation officer or agent or the investigating judge, put questions to the person concerned and make observations. The criminal investigation officer or agent or the investigating judge may object to questions and observations only if they are of such

---

<sup>1</sup> <http://data.legilux.public.lu/eli/etat/leg/loi/2017/03/08/a346/jo>.

a nature as to prejudice the proper conduct of the investigation or preliminary investigation. This refusal, together with the questions asked or comments made, shall be recorded in the report.

(5) The right to legal counsel includes the right to have a lawyer present during any action taken in the course of an investigation or preparatory inquiry that the person is required or permitted to attend.

8. The Extradition Act of 20 June 2001 was amended to include a new article 18-1, whose paragraph 2 provides that “the arrested person has the right to notify and communicate with the consular authorities of the State of which he or she is a national without undue delay”.

9. Pursuant to paragraph 3 of the same article, “the arrested person shall have the right to be assisted in Luxembourg by a lawyer without undue delay after his or her arrest”.

### **C. Reply to the issue raised in paragraph 2 (b)**

10. Pursuant to the Act of 8 March 2017, the Code of Criminal Procedure was amended to include a new article 52-1, paragraph 2 of which provides that “from the moment a person is deprived of his or her liberty, he or she has the right to be examined without delay by a doctor. Furthermore, the criminal investigation officer may, at any time, on his or her own initiative or at the request of a member of the detainee’s family, designate a doctor to examine the detainee.”

11. Article 458 of the Criminal Code, which refers to professional secrecy, establishes that doctors have an obligation of professional confidentiality, as does article 26 of the Act of 20 July 2018 on the Reform of the Prison Administration.<sup>2</sup>

12. Article 26 (4) of the Act provides that:

The doctor treating the detainee, as well as all other professionals who may be bound by professional secrecy or an obligation of confidentiality, may exchange necessary information with the Prison Administration when doing so is in the interest of the detainee concerned, other detainees or staff; in the interest of security, safety and health conditions at the prison; or in the interest of other persons who have physical contact with detainees, including in relation to the control of contagious diseases.

13. In practice, medical examinations are conducted out of sight of third parties.

### **D. Reply to the issue raised in paragraph 2 (c)**

14. Persons deprived of their liberty are informed of their rights from the outset of the deprivation of liberty:

- In the case of a serious or ordinary offence committed in flagrante delicto, article 39 of the Code of Criminal Procedure provides that persons are informed, as soon as they are detained, of all their rights under articles 3-2, 3-3 and 3-6 of the Code of Criminal Procedure, as well as of the remedies provided for under article 48-2 and of the fact that they may be deprived of their liberty for a maximum period of 24 hours before being brought before an investigating judge, that they have the right to make statements and answer questions put to them, or to remain silent, and of the presumed nature and date of the offence for which they are being detained.
- Article 46 of the Code of Criminal Procedure provides that, during the preliminary investigation, persons being questioned must be informed of their rights under articles 3-2, 3-3 and 3-6 of the Code of Criminal Procedure.

<sup>2</sup> <http://data.legilux.public.lu/eli/etat/leg/loi/2018/07/20/a626/jo>.

- Within the framework of the preparatory investigation, article 52-1 of the Code of Criminal Procedure provides that:

(2) As soon as a person is deprived of his or her liberty, that person has the right to be examined by a doctor without delay.

Furthermore, the criminal investigation officer may, at any time, on his or her own initiative or at the request of a member of the detainee's family, designate a doctor to examine the detainee.

(3) The person has the right to notify a person of his or her choice without undue delay. A telephone is made available for this purpose.

## **E. Reply to the issue raised in paragraph 2 (d)**

15. In accordance with the amended Protection of Young People Act of 10 August 1992, minors are not deprived of their liberty but subjected to custodial and educational measures taken in their regard.<sup>3</sup>

16. In exceptional cases, provided that they have reached the age of 16 years, minors are prosecuted in accordance with the usual powers and procedures. Pursuant to article 32 of the above-mentioned Act, this occurs when custodial, educational and protective measures prove inadequate.

17. Article 19 of the amended Act of 10 August 1992 stipulates that "the provisions concerning the prosecution of criminal offences are applicable to all proceedings covered by this Act". It therefore follows that the articles of the Code of Criminal Procedure that set out all rights, in particular articles 3-2, 3-3 and 3-6, are applicable to minors who are subjected to a protective measure or, where necessary, deprived of their liberty.

18. A new bill (No. 7276), which aims to overhaul the current system for the protection of young persons, strengthens the safeguards set out in the Code of Criminal Procedure and provides that a lawyer should be involved any time protective measures are taken with regard to a minor. The new bill enshrines a number of new principles, including the maintenance of parental authority, and establishes a new temporary custody measure.

19. There are two shelters for male victims of trafficking in persons, run by Caritas and the Fondation Maison de la Porte Ouverte. Together, these shelters have 14 beds. In addition, two studio flats, located near the border with Belgium, have been rented for the purpose of housing victims of trafficking. The counselling service for men INFOMANN<sup>4</sup> makes a number of rooms available for the purpose of protecting male victims of trafficking.

20. Some shelters are certified to provide additional services to protect victims. The Fondation Maison de la Porte Ouverte<sup>5</sup> and the Human Trafficking Victim Support Service<sup>6</sup> (Femmes en Détresse) offer counselling to victims of trafficking. They coordinate the assistance provided to all victims, irrespective of their sex.

## **F. Reply to the issue raised in paragraph 3 (a)**

21. Statistical data on the number of victims of trafficking and the number of complaints are provided below:

- In 2013, 9 complaints were filed
- In 2014, 14 complaints were filed
- In 2015, 8 complaints were filed

---

<sup>3</sup> <http://data.legilux.public.lu/eli/etat/leg/loi/1992/08/10/n3/jo>.

<sup>4</sup> <http://www.infomann.lu/index.php/infomann-home>.

<sup>5</sup> <http://fmpo.lu/services/service-dassistance-aux-victimes-de-la-traite-des-etres-humains/>.

<sup>6</sup> <https://fed.lu/wp/services/savteh/>.

- In 2016, 22 complaints were filed
  - In 2017, 24 complaints were filed
  - In 2018, 14 complaints were filed
22. A total of 64 complaints gave rise to an investigation.
23. All complaints were submitted to the Grand Ducal police force or to the Directorate of Immigration (Ministry of Foreign Affairs).
24. Two thirds of the victims are women while one third are men.
25. The nationalities and numbers of victims are as follows:
- Romania: 14
  - Brazil: 11
  - China: 11
  - Albania: 8
  - Republic of Moldova: 6
  - India: 5
  - Hungary: 3
  - Nigeria: 3
  - Colombia: 2
  - Pakistan: 2
  - Portugal: 2
  - Czechia: 2
  - Tunisia: 2
  - Bangladesh: 1
  - Bulgaria: 1
  - Cameroon: 1
  - The Gambia: 1
  - Guinea-Bissau: 1
  - Iran: 1
  - Morocco: 1
  - Mauritania: 1
  - Luxembourg: 1
  - The Netherlands: 1
  - The Philippines: 1
  - Slovakia: 1
  - Ukraine: 1

### **G. Reply to the issue raised in paragraph 3 (b)**

26. The fight against trafficking in persons is defined in article 382-1 of the Criminal Code in the following terms:

- (1) The offence of trafficking in persons is defined as the recruitment, transportation, transfer, harbouring, receipt, passage or transfer of control over a person for the purpose of:

- (1) Committing the offences of procuring, assault or sexual assault against that person;
- (2) Exploiting that person's labour or services by subjecting him or her to forced or compulsory labour or services, servitude, slavery or similar practices, generally in conditions that are contrary to human dignity;
- (3) Inciting that person to engage in begging, exploiting his or her begging or allowing a beggar to make use of him or her to arouse public pity;
- (4) Removing that person's organs or tissues in breach of the relevant legislation;
- (5) Causing that person to commit a serious or ordinary offence against his or her will.

27. The version of the national action plan against trafficking in persons<sup>7</sup> launched on 16 November 2016 sets out a clear, specific and coordinated strategy involving the different actors working to combat trafficking in persons.

28. The Monitoring Committee on Combating Trafficking in Persons is responsible for implementing, monitoring and coordinating measures taken to prevent and assess the scope of trafficking and to analyse and centralize the statistical data transmitted to it. It is also responsible for monitoring and assessing the implementation of the relevant legislation on trafficking in persons.

29. This committee may submit any proposals that it considers useful to the Government. It is composed of representatives of the public bodies that have competence for implementing the Act on Assisting Victims of Trafficking and the representatives of authorized assistance services and associations. A Grand Ducal regulation determines its composition, organization and functioning, and the allowance paid to its members.

30. With regard to professionals, including the staff of assistance services, article 9 of the Act of 8 May 2009 on Assistance to and the Protection and Security of Victims of Human Trafficking<sup>8</sup> provides that police officers specializing in preventing or combating trafficking, immigration officers and support service staff are required to attend training courses on the identification of victims, human rights and the protection of victims against traffickers.

31. The Labour and Mines Inspectorate is a monitoring body that reports to the Ministry of Labour, Employment and the Social and Solidarity-based Economy. It oversees the correct implementation of labour law legislation by employers and the related evaluation procedures.

32. Labour inspectors, who play a role in identifying potential victims of human trafficking in the workplace, must be trained in the identification of victims of trafficking for the purposes of labour exploitation.

33. Judges and prosecutors attend a training course organized by the National School of the Judiciary in France and the German Judicial Academy. Part of their training is dedicated to the subject of human trafficking.

34. A number of training courses and lectures on trafficking are delivered to law enforcement officials, judges and prosecutors, labour inspectors, customs officials, lawyers, staff working in shelters and counselling centres for persons in distress, migrants, persons who assist victims of trafficking, staff involved in child welfare, social workers, staff working in refugee reception centres and the holding centre for migrants in an irregular situation, diplomatic and consular staff, health-care professionals, trade union staff, local authority staff and teaching staff working in formal and informal education.

35. The Luxembourg authorities have set themselves the goal of providing harmonized training so as to ensure that all those who deal with issues relating to trafficking in persons

---

<sup>7</sup> [http://mj.public.lu/services\\_citoyens/stop\\_traite/Plan\\_action\\_national\\_traite.pdf](http://mj.public.lu/services_citoyens/stop_traite/Plan_action_national_traite.pdf).

<sup>8</sup> <http://data.legilux.public.lu/eli/etat/leg/loi/2009/05/08/n1/jo>.



in their work have been given the same information. The development of joint training sessions on trafficking is encouraged.

36. An information and awareness-raising campaign on human trafficking,<sup>9</sup> aimed at the general public, was launched in early December 2017 by the Monitoring Committee on Combating Trafficking in Persons. Its objective is to raise public awareness of all forms of trafficking and to inform the public of the agencies to contact if potential victims are detected.

37. Pursuant to article 2 of the amended Act of 8 May 2009 on Assistance to and the Protection and Security of Victims of Human Trafficking, measures to support and protect victims involve providing them with:

(a) Accommodation, social and socio-educational support, material and financial support, and medical, psychological and therapeutic support, depending on their needs;

(b) Linguistic support, where appropriate;

(c) Legal aid under the conditions set out in the relevant legislation.

(2) Financial assistance may be granted for bona fide reasons relating to the physical, psychological or social recovery of the victim.

(3) Victims who are citizens of the European Union or equivalent and who receive financial assistance should fulfil the condition set out in article 6 (1) (2) of the Act on the Free Movement of Persons and Immigration.

38. Other assistance measures are provided for in articles 3 et seq. of the same Act.

## H. Reply to the issue raised in paragraph 3 (c)

39. The reparation measures available to victims are set out in the amended Act of 8 May 2009 on Assistance to and the Protection and Security of Victims of Human Trafficking (see point (b) above).

40. The Act of 9 April 2014 on the Strengthening of the Rights of Victims of Human Trafficking<sup>10</sup> amended article 1 of the amended Act of 12 March 1984 on Compensation for Certain Victims of Bodily Injury Resulting from an Offence and the Punishment of Fraudulent Insolvency. The amended article reads as follows:

Any person who suffers material or moral harm in the Grand Duchy as a result of deliberate acts that constitute an offence is entitled to compensation from the State.

(1) If he or she regularly and habitually resides in the Grand Duchy; or

(2) If, at the time when he or she became the victim of the offence, he or she was lawfully present in the Grand Duchy; or

(3) If he or she is a national of a member State of the Council of Europe; or

(4) If he or she is a victim of the offence referred to in article 382-1 of the Criminal Code;

and if the following conditions are met:

1. These acts have caused either bodily injury resulting in death, permanent disability or total incapacity to work for more than one month, or are punishable under articles 372 to 376 of the Criminal Code and, if the victim is a minor, under article 382-1 of the Criminal Code.

2. The damage has a serious impact on living conditions resulting from a loss or reduction in income, an increase in exceptional charges or expenses, inability to carry out a professional activity, loss of a year of schooling, violation of physical or mental integrity, or moral or aesthetic harm and physical or mental suffering. Victims of an offence under articles 372 to 376 of the Criminal Code and child victims of an offence

<sup>9</sup> <https://www.stoptraite.lu>.

<sup>10</sup> <http://data.legilux.public.lu/eli/etat/leg/loi/2014/04/09/n1/jo>.

under article 382-1, are exempted from having to provide evidence of an alleged violation of physical or mental integrity, which is assumed in the charge.

3. The injured party is unable to obtain effective and sufficient reparation or compensation on any grounds whatsoever.

However, compensation may be refused, or its amount reduced, on account of the behaviour of the injured party during the events or his or her relationship with the perpetrator.

41. Article 3-7 of the Code of Criminal Procedure sets out in detail the information to be provided to the victim.

42. This includes information on the procedures and conditions for obtaining protection and compensation.

43. With regard to the protection of victims and witnesses at the national level, reference is again made to the Act of 13 March 2009 on Trafficking in Human Beings, the Act of 8 May 2009 on Assistance to and the Protection and Security of Victims of Human Trafficking, and the Act of 9 April 2014 on the Strengthening of the Rights of Victims of Human Trafficking.

44. In addition, article 1017-13 of the Code of Civil Procedure focuses on legal action in certain cases of violence.

45. This article, which establishes a protection regime for victims and witnesses, stipulates the following:

If a person attempts to intimidate a victim of trafficking in human beings, a witness, an employee of a support service or an association referred to in article 1 of the Act on Assistance to and the Protection and Security of Victims of Human Trafficking, a family member or an acquaintance of the above-mentioned persons, or if he or she is preparing to commit an act of reprisal against one of these persons, the president of the district court shall, at the request of the person concerned, issue one or more of the following prohibitions and injunctions against him or her:

- A ban on visiting certain places
- A ban on making any kind of contact with the person to be protected
- A ban on possessing or carrying a weapon and an order to hand over any weapons to a designated police service in exchange for a statement of receipt.

## **I. Reply to the issue raised in paragraph 4**

46. The Ombudsman receives complaints in his or her capacity as mediator within the meaning of the Act of 22 August 2003. The Ombudsman's external service for the monitoring of places of deprivation of liberty, which functions as a national preventive mechanism within the meaning of the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, has a general, preventive purpose, and does not usually deal with individual complaints. Complaints alleging treatment that could be classified as inhuman, degrading or cruel within the meaning of article 3 of the European Convention on Human Rights are very rare. The majority of the complaints received by the Ombudsman relate to the administrative functioning of the institution and can usually be resolved quickly.

47. However, the Ombudsman wishes to highlight two cases that required further action:

- An inmate of Luxembourg Prison who was suffering from several serious medical conditions referred the matter to the Ombudsman because he considered that his medical follow-up and nursing care were insufficient and inadequate. As the complaints made were very serious, the Ombudsman arranged a medical consultation with a foreign expert, who examined the patient and consulted the file held at the prison. Although some minor shortcomings were detected and rectified, the expert did not call into question the treatment provided by the prison's medical service.

- During a monitoring mission on the situation of women in prison,<sup>11</sup> the monitoring team discovered a situation requiring special action: a woman who was in pretrial detention at the prison at the same time as her husband gave birth at the Luxembourg Hospital under close police supervision. At the maternity ward, a female police guard had allegedly been posted outside the door of the delivery room. In addition, four police officers, three of whom were men, were allegedly present in the delivery room during the labour and delivery. Furthermore, the woman's foot was allegedly secured to the bed by means of a restraint, which is contrary to the Bangkok Rules.<sup>12</sup> The father of the child was allegedly handcuffed. After the birth, these handcuffs were not removed and replaced by, for example, foot restraints, which would have allowed him to hold his newborn baby in his arms. The court records show that the father had returned to the prison about three-quarters of an hour after the delivery. The woman allegedly spent five days in the maternity ward, where her foot was continuously secured to the bed by means of a restraint. She was forced to call the nursing staff to bring her baby to her when this was necessary. The external service for the monitoring of places of deprivation of liberty addressed the issue in the report drawn up in the wake of the monitoring visits and meetings were held with the police authorities to prevent a similar situation from occurring in the future.

48. The Advisory Commission on Human Rights recalls that it does not have a mandate to deal with complaints or individual cases. None of the cases referred to the Commission by individuals related to the Convention.

49. The external service for the monitoring of places of deprivation of liberty stresses that all reports, including monitoring reports and position papers issued by the competent agencies, can be consulted on its website ([www.celpl.lu](http://www.celpl.lu)).

50. As the recommendations are often very specific and concern operational details, the service considers that it would be better to highlight a few particularly important recommendations that have not yet been implemented and are likely not to be implemented in the short term.

#### **Placement of minors in prison**

51. The main recommendation that has not yet been followed up concerns the placement of minors in the adult prison.

52. Contrary to the recommendations of the service and the Council of Europe Anti-Torture Committee, it is still possible for minors to be placed in adult prisons.

53. A bill that is currently under consideration does not establish, as a matter of principle, that minors must not be placed in the adult prison. The bill, which will certainly undergo further amendments, currently establishes only the following three cumulative conditions for the placement of minors in the adult prison:

- In cases of absolute necessity
- In cases where the minor poses a threat to public order or public security
- In cases where the minor has committed, or is suspected of having committed, an act classed as a criminal offence punishable by a maximum prison term of at least two years.

54. The bill does not provide for a lower age limit.

<sup>11</sup> See <http://celpl.lu/uploads/RV/RV16.zip>. The situation in question is documented on pp. 21–26 of the report.

<sup>12</sup> United Nations Rules for the Treatment of Women Prisoners and Non-custodial Measures for Women Offenders (A/RES/65/229).

**Provision of medication at the State socio-educational centre**

55. A recommendation concerning the distribution of medicines has been issued to the boarding schools of the State socio-educational centre and, more recently, to the security unit of the same centre.

56. In order to protect medical confidentiality, the Ombudsman recommends that medication be distributed exclusively by nursing staff. This recommendation was initially not followed up owing to the lack of staff.

57. Following the first report issued by the external service for the monitoring of places of deprivation of liberty on the State socio-educational centre, the nursing workforce has been increased from 1 to 2.5 full-time equivalents.

58. The administration of the State socio-educational centre informed the service that it would implement the recommendations related to drug distribution, which included monitoring the medication administered, if staffing levels were increased by 0.5 full-time equivalents.

59. Currently, the administration states that it follows the individualized care plan developed by the Ministry of Health. This plan, which has been in operation since 2015, is aimed at improving the support for children with specific health needs and their integration into preschool, primary and secondary educational establishments and shelters. However, the external service for the monitoring of places of deprivation of liberty is of the view that this plan, in its current form, cannot be applied at the State socio-educational centre (boarding schools or security unit) and that it is more applicable to chronic conditions requiring the teaching staff to exercise constant vigilance.

**Procedures for conducting medical consultations for detainees in hospitals**

60. The external service for the monitoring of places of deprivation of liberty has recommended that the internal regulations of the Grand Ducal police force should be amended to ensure that medical examinations take place without the need for a police officer's presence unless otherwise requested by the doctor concerned.

61. The service requests that detainees should not be handcuffed during medical examinations except at the express request of the doctor or, alternatively, if there is a risk of escape that has been duly recorded by the police officers accompanying the detainee.

62. If the detainee is considered to be particularly dangerous, the doctor may be informed.

63. The Grand Ducal police force has agreed to the procedure, on condition that doctors who refuse to have a police officer present or allow detainees to wear handcuffs sign a waiver for the officers accompanying the detainee.

64. The service regulations of the Grand Ducal police force have been amended but currently provide that medical consultations must take place in the presence of an officer unless otherwise requested by the doctor. In such cases, detainees are handcuffed while the medical examination is carried out.

65. The Ombudsman maintains the recommendation that Grand Ducal police officers should be present only exceptionally.

**Criteria for the application of the Act of 10 December 2009 on the Involuntary Hospitalization of Persons with a Mental Illness**

66. An important recommendation in the field of psychiatry concerns the legal criteria governing situations in which an order for the involuntary placement of a person with a mental illness in an institution may be issued.

67. In order for such a placement to be considered, the Act of 2009 provides that serious psychosocial disabilities must exist that make a person dangerous to himself or herself or others. The external service for the monitoring of places of deprivation of liberty is of the view that this wording should be interpreted more broadly and should not be limited to any one aspect of dangerousness or even to the commission of actions.

68. It must be acknowledged that patients may have psychiatric or mental disorders without posing any risk of harm to themselves or others, which means that they do not represent a danger to themselves or others.

69. The service is of the view that, if it is duly established that a person's state of health could be adversely affected by his or her discharge from hospital, such a discharge should be considered as a danger to the self.

## J. Reply to the issue raised in paragraph 5 (a)

### Annual statistics on asylum seekers since 2015

<i>Applicants for international protection</i>							
2015		2016		2017		2018	
<i>Country of nationality</i>	<i>No.</i>	<i>Country of nationality</i>	<i>No.</i>	<i>Country of nationality</i>	<i>No.</i>	<i>Country of nationality</i>	<i>No.</i>
Syrian Arab Republic	632	Syrian Arab Republic	289	Syrian Arab Republic	361	Eritrea	392
Iraq	536	Albania	226	Eritrea	223	Syrian Arab Republic	227
Kosovo	231	Kosovo	208	Morocco	205	Iraq	196
Afghanistan	218	Iraq	161	Serbia	185	Afghanistan	176
Albania	153	Serbia	153	Algeria	168	Georgia	141
Other	677	Other	999	Other	1 176	Other	1 074
<b>Total</b>	<b>2 447</b>	<b>Total</b>	<b>2 036</b>	<b>Total</b>	<b>2 318</b>	<b>Total</b>	<b>2 206</b>
<i>Sex</i>	<i>No.</i>	<i>Sex</i>	<i>No.</i>	<i>Sex</i>	<i>No.</i>	<i>Sex</i>	<i>No.</i>
Women	737	Women	562	Women	524	Women	588
Men	1 710	Men	1 474	Men	1 794	Men	1 618
<b>Total</b>	<b>2 447</b>	<b>Total</b>	<b>2 036</b>	<b>Total</b>	<b>2 318</b>	<b>Total</b>	<b>2 206</b>
<i>Age group</i>	<i>No.</i>	<i>Age group</i>	<i>No.</i>	<i>Age group</i>	<i>No.</i>	<i>Age group</i>	<i>No.</i>
0–5	239		193		193		191
6–11	230		147		178		135
12–17	255		160		145		156
18–24	432		436		592		502
25–64	1 285		1 097		1 200		1 208
65+	6		3		10		14
<b>Total</b>	<b>2 447</b>	<b>Total</b>	<b>2 036</b>	<b>Total</b>	<b>2 318</b>	<b>Total</b>	<b>2 206</b>

## K. Reply to the issue raised in paragraph 5 (b)

<i>Decisions on international protection</i>									
2015					2016				
<i>Nationality</i>	<i>PO1</i>	<i>PO2</i>	<i>Negative</i>	<i>Total</i>	<i>Nationality</i>	<i>PO1</i>	<i>PO2</i>	<i>Negative</i>	<i>Total</i>
Syrian	81		20	101	Syrian	541		61	602
Eritrean	27	1	13	41	Iraqi	95	8	94	197
Iraqi	14	7	26	47	Eritrean	23	3	23	49

<i>Decisions on international protection</i>									
2015					2016				
<i>Nationality</i>	<i>PO1</i>	<i>PO2</i>	<i>Negative</i>	<i>Total</i>	<i>Nationality</i>	<i>PO1</i>	<i>PO2</i>	<i>Negative</i>	<i>Total</i>
Turkish	14		6	20	Undetermined (Palestine)	19		26	45
Stateless	11			11	Iranian	15	3	13	31
Other	54	21	946	1 021	Other	76	13	1 331	1 420
<b>Total</b>	<b>201</b>	<b>29</b>	<b>1 011</b>	<b>1 241</b>	<b>Total</b>	<b>769</b>	<b>27</b>	<b>1 548</b>	<b>2 344</b>

<i>Decisions on international protection</i>									
2017					2018				
<i>Nationality</i>	<i>PO1</i>	<i>PO2</i>	<i>Negative</i>	<i>Total</i>	<i>Nationality</i>	<i>PO1</i>	<i>PO2</i>	<i>Negative</i>	<i>Total</i>
Syrian	466		41	507	Syrian	313		33	346
Iraqi	346	7	164	517	Eritrean	310	7	56	373
Afghan	162	30	26	218	Iraqi	164	10	82	256
Eritrean	99	6	17	122	Iranian	59	3	6	68
Iranian	32		22	54	Afghan	55	40	61	156
Other	70	13	1 711	1 794	Other	88	14	1 082	1 184
<b>Total</b>	<b>1 175</b>	<b>56</b>	<b>1 981</b>	<b>3 212</b>	<b>Total</b>	<b>989</b>	<b>74</b>	<b>1 320</b>	<b>2 383</b>

<i>Decisions on international protection</i>									
2015					2016				
<i>Sex</i>	<i>International refugee protection</i>	<i>Subsidiary protection</i>	<i>Negative decision</i>	<i>Total</i>	<i>International refugee protection</i>	<i>Subsidiary protection</i>	<i>Negative decision</i>	<i>Total</i>	
Women	78	15	275	368	277	10	381	668	
Men	123	14	736	873	492	17	1 167	1 676	
<b>Total</b>	<b>201</b>	<b>29</b>	<b>1 011</b>	<b>1 241</b>	<b>769</b>	<b>27</b>	<b>1 548</b>	<b>2 344</b>	
2017					2018				
<i>Sex</i>	<i>International refugee protection</i>	<i>Subsidiary protection</i>	<i>Negative decision</i>	<i>Total</i>	<i>International refugee protection</i>	<i>Subsidiary protection</i>	<i>Negative decision</i>	<i>Total</i>	
Women	452	12	375	839	369	17	220	606	
Men	723	44	1 606	2 373	620	57	1 100	1 777	
<b>Total</b>	<b>1 175</b>	<b>56</b>	<b>1 981</b>	<b>3 212</b>	<b>989</b>	<b>74</b>	<b>1 320</b>	<b>2 383</b>	

<i>Decisions on international protection</i>								
<i>Age group</i>	<i>2015</i>				<i>2016</i>			
	<i>International refugee protection</i>	<i>Subsidiary protection</i>	<i>Negative decision</i>	<i>Total</i>	<i>International refugee protection</i>	<i>Subsidiary protection</i>	<i>Negative decision</i>	<i>Total</i>
0–5	51	3	96	150	128	2	120	250
6–11	22	3	67	92	91	5	77	173
12–17	11	2	65	78	64	5	93	162
18–24	15	6	197	218	69	4	331	404
25–64	10	15	584	701	414	11	919	1 344
65+			2	2	3		8	11
<b>Total</b>	<b>201</b>	<b>29</b>	<b>1 011</b>	<b>1 241</b>	<b>769</b>	<b>27</b>	<b>1 548</b>	<b>2 344</b>

<i>Age group</i>	<i>2017</i>				<i>2018</i>			
	<i>International refugee protection</i>	<i>Subsidiary protection</i>	<i>Negative decision</i>	<i>Total</i>	<i>International refugee protection</i>	<i>Subsidiary protection</i>	<i>Negative decision</i>	<i>Total</i>
0–5	225	5	143	373	195	9	91	295
6–11	154	2	115	271	98	3	67	168
12–17	117	5	100	222	71	6	49	126
18–24	167	23	490	680	161	27	342	530
25–64	504	20	1 131	1 655	457	29	769	1 255
65+	8	1	2	11	7		2	9
<b>Total</b>	<b>1 175</b>	<b>56</b>	<b>1 981</b>	<b>3 212</b>	<b>989</b>	<b>74</b>	<b>1 320</b>	<b>2 383</b>

## L. Reply to the issue raised in paragraph 5 (c)

70. The general medical examination provided for in article 4 of the Act of 18 December 2015 on the Reception and Temporary Protection of Applicants for International Protection<sup>13</sup> is carried out by a doctor from the Department of Health who is appointed for this purpose by the minister responsible for matters of health. It may include an examination of signs of persecution or serious harm that the applicant has allegedly suffered in the past.

71. Within the Department of Health, the health inspection unit is responsible for:

- Early health screening of applicants for international protection: a medical examination conducted for public health purposes, mainly for conditions that pose a risk of infection but also for other serious health conditions (1,650 examinations in 2018); this is carried out within 10 days of the applicants' arrival.
- Consultations for applicants for international protection not covered by health insurance (all applicants during the first three months and all applicants subject to the Dublin Regulation) (5,215 consultations in 2018).

72. In the course of these two examinations, doctors may encounter persons with, for instance, scars that might have been caused by ill-treatment. Other persons come forward with psychiatric disorders that may have arisen as a result of physical abuse. At the request of the person concerned, the doctor may issue a certificate attesting that the person has a particular injury or may propose psychiatric or another form of care. No action is taken unless the person concerned has requested or agreed to it.

73. There is no standard system in place for investigating the situation of all arrivals. Furthermore, there are no statistics on this aspect of health care. The Committee's guidance

<sup>13</sup> <http://data.legilux.public.lu/eli/etat/leg/loi/2015/12/18/n16/jo>.

or recommendations in this regard would be welcome, as would information on the experiences of countries that have successfully implemented such a system.

### M. Reply to the issue raised in paragraph 5 (d)

<i>Returns by nationality</i>	2017	<i>Returns by nationality</i>	2018
Albanian	114	Georgian	49
Kosovan	106	Kosovan	45
Serbian	64	Serbian	43
Bosnia and Herzegovina	55	Albanian	30
Montenegrin	32	Bosnia and Herzegovina	27
Other	152	Other	164
<b>Total</b>	<b>523</b>	<b>Total</b>	<b>358</b>

<i>Returns by gender</i>	2017	2018
F	162	95
M	361	263
<b>Total</b>	<b>523</b>	<b>358</b>

<i>Returns by country of return</i>	2017	<i>Returns by country of return</i>	2018
Albania	118	Georgia	50
Kosovo	113	Kosovo	45
Serbia	58	Serbia	44
Bosnia and Herzegovina	55	Albania	29
Montenegro	32	Bosnia and Herzegovina	27
Other	147	Other	163
<b>Total</b>	<b>523</b>	<b>Total</b>	<b>358</b>

<i>Dublin transfers by nationality</i>	2017	<i>Dublin transfers by nationality</i>	2018
Moroccan	40	Iraqi	39
Kosovan	39	Moroccan	28
Serbian	34	Algerian	26
Algerian	33	Tunisian	22
Georgian	25	Georgian	20
Other	215	Other	156
<b>Total</b>	<b>386</b>	<b>Total</b>	<b>291</b>

<i>Dublin transfers by sex</i>	2017	<i>Dublin transfers by sex</i>	2018
F	52	F	29
M	334	M	262
<b>Grand Total</b>	<b>386</b>	<b>Total</b>	<b>291</b>



<i>Dublin transfers by member State</i>	<i>2018 Dublin transfers by member State</i>		<i>2017</i>
Germany	109	Germany	155
France	50	The Netherlands	65
Italy	40	Italy	35
Switzerland	21	France	26
Belgium	19	Belgium	26
Other	52	Other	79
<b>Total</b>	<b>291</b>	<b>Total</b>	<b>386</b>

## **N. Reply to the issue raised in paragraph 5 (e)**

74. The Directorate of Immigration currently has no data on this subject but will endeavour to include some relevant statistics in the next report for the Committee.

## **O. Reply to the issue raised in paragraph 6 (a)**

75. Article 17 (1) of the Act of 18 December 2015 provides that:

The applicant has the right to be assisted on request and to be represented free of charge in appeal proceedings by a lawyer appointed by the President of the Bar under the conditions and in accordance with the procedures set out in article 37-1 of the amended Act of 10 August 1991 on the Legal Profession, unless the applicant's appeal is considered unlikely to succeed.

76. Article 37-1 of the above-mentioned Act provides that legal aid may be granted to any foreign national whose resources are insufficient, within the limits of article 17 of the Act of 18 December 2015.

77. Article 37-1 provides details of the assessment criteria:

The means testing of natural persons applying for legal aid is based on their total gross income and assets and those of the members of the household, in accordance with articles 9 and 10 of the Act of 28 July 2018 establishing the right to a guaranteed minimum income, and within the limits of the amounts established in article 5 of that Act. However, the means of other people living in the household are not taken into consideration if the proceeding involves a dispute between spouses or persons usually living together in the same home, or where there is a conflict of interest between them regarding the subject matter of the dispute, making a separate evaluation of financial means necessary.

78. The authority empowered to grant legal aid is the President of the Bar or a member of the Bar Council, as provided for in article 37-1 (5) of the amended Act on the Legal Profession:

(5) (Act of 21 June 2007) The President of the Bar or a member of the Bar Council appointed by the former for the purpose in the applicant's district of residence decides whether to assign legal aid. Where the applicant is a non-resident, the decision is taken by the President of the Luxembourg Bar or a member of the Bar Council appointed by the former for the purpose. Persons with insufficient means apply to the President of the Bar either at a hearing or in writing.

If a person detained by the police claims entitlement to legal aid and requests it, the lawyer assisting the applicant during his or her detention submits the application to the President of the Bar.

If the investigating judge appoints a lawyer for an accused person who claims entitlement to, and applies for, legal aid, the investigating judge submits the application to the President of the Bar.

The President of the Bar verifies the claim of insufficient means and, if it is substantiated, authorizes the applicant's request for legal aid and appoints a lawyer freely chosen by the latter or, where no choice has been made, or the President deems the choice to be inappropriate, the lawyer of the President's own choice. Except on grounds of impediment or conflict of interest, lawyers must accept instructions issued to them in this way.

#### **P. Reply to the issue raised in paragraph 6 (b)**

79. Article 35 of the Act of 18 December 2015 provides the following:

Decisions to deny or withdraw international protection and orders to leave the national territory are subject to appeal for correction before the Administrative Tribunal. [...] The decisions of the Administrative Tribunal may be appealed before the Administrative Court. The appeal must be lodged within one month from the date on which notice was served by the registry. [...]

(2) The minister's decision to rule on the merits of the application for international protection through a summary procedure and his or her decision to reject the application for international protection within the framework of that procedure, as well as his or her decision to issue an order to leave the national territory, are subject to appeal for correction before the Administrative Tribunal. The appeal against these three decisions must be made within a single application to institute proceedings; separate appeals shall be declared inadmissible. It must be lodged within 15 days from the date on which notice was served. [...] The decisions of the divisional president or his or her substitute are not subject to appeal.

80. Article 36 (1) specifies that the appeals provided for in article 35 (1) and (2) have suspensive effect. The competent minister must grant the applicant authorization to remain in the country until the period for appeal has expired or, if the applicant has exercised his or her right to appeal within this time limit, until the appeal has been resolved.

81. Applicants who have submitted one of the appeals provided for in article 35 (3), which, with the exception of appeals against decisions of inadmissibility taken pursuant to article 28 (2), do not have suspensive effect according to article 36 (2), may submit an application for interim measures to the president of the Administrative Tribunal in order to obtain a stay of execution or a protective measure, in which case the minister's decision will not be executed until an interlocutory order has been issued.

#### **Q. Reply to the issue raised in paragraph 6 (c)**

82. Measures have been taken to ensure that the procedure for applying for international protection is simple and expeditious. All persons who wish to apply for international protection are housed in a residence for new arrivals. Every morning, a shuttle bus takes the persons who arrived the previous day to the offices of the Directorate of Immigration and the presentation, registration and submission of their applications are completed that day. The application of any person who wishes to apply for international protection is registered on the spot with the assistance of an interpreter and a case file is opened for the submission of the application as soon as the applicant has filled out the necessary forms.

83. There are two circumstances in which the three stages of the application procedure cannot be completed in one day:

- When no interpreters with the appropriate language combination are available, in which case an appointment is scheduled and the applicant is asked to return the following day or at a later date, depending on the availability of the interpreter.
- When the applicant is an unaccompanied minor, in which case the presentation and registration stages are completed but the application cannot be submitted until an ad hoc administrator has been appointed, since minors do not have the legal capacity to sign documents with legal force and therefore cannot submit an application without

the assistance of a legal representative. In such cases, the family court judge is immediately notified by the Directorate of Immigration and must designate an ad hoc administrator within two weeks. For the duration of the period between the registration of the application and its submission, the minor is held in a children's home with other children of his or her own age.

84. Adult applicants who are required to return to the Directorate at a later date because of the unavailability of an interpreter are housed in the residence for new arrivals.

85. The Directorate of Immigration has established a pool of interpreters who are fluent in the languages most commonly used by applicants. These interpreters are present at the Directorate every day, which makes it possible to complete the three stages of the procedure at the same time.

## **R. Reply to the issue raised in paragraph 6 (d)**

86. A risk assessment is carried out during the international-protection application procedure; for the purposes of this assessment, the destination country is understood to be the applicant's country of origin.

87. In the case of persons in an irregular migration situation, article 129 provides that the expulsion procedure must be suspended if the person concerned is able to demonstrate that his or her life or freedom would be seriously threatened in the destination country, or that he or she would be subjected to treatment contrary to article 3 of the European Convention on Human Rights or articles 1 and 3 of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment. The same applies to persons due to be transferred within the framework of the Dublin III Regulation. In the context of Dublin transfers, according to national and European case law, the member State carrying out the transfer may not interfere with proceedings in the receiving State. All receiving States have necessarily ratified the above-mentioned human rights conventions and are expected to apply them.

## **S. Reply to the issue raised in paragraph 7**

88. Luxembourg has not rejected any such requests.

## **T. Reply to the issue raised in paragraph 8**

89. The obligations incumbent on police officers in connection with custodial measures are set out in detail in internal police directives. These directives provide that any ill-treatment of a detainee will trigger criminal and disciplinary proceedings.

### **Basic police training**

90. The basic training provided to trainee police officers in grades B1, C1 and C2 was reviewed in 2018. The module "Police and society" is still taught. This module mainly covers the topic of police-citizen relations, both in terms of legislation and regulation, including with regard to human rights and individual freedoms, and in terms of ethical behaviour and intercultural sensitivity. The following courses are currently taught as part of the module:

- Human rights (10 hours)
- The Constitution and public freedoms (18 hours)
- Constitutional principles, fundamental rights and public freedoms (12 hours)
- Rights and duties of public officials (14 hours)
- Police ethics and efforts to combat extremism and fanaticism (14 hours)

91. Basic training also includes courses on criminal procedure, interview techniques, the transport and treatment of persons deprived of their liberty, and conflict management.

92. The following activities are held at the police college to raise awareness of women's and children's rights among trainee police officers and as part of strategies to combat, inter alia, the prostitution and sexual exploitation of minors:

- A 12-hour course on the protection of young people
- A 14-hour course on domestic violence including a lecture by a representative of the Ministry of Equality between Women and Men
- Courses in criminal law that deal with various types of criminal offences (racism, discrimination, sexual offences, etc.)
- A lecture organized by the Ombuds-Comité fir d'Rechter vum Kand (Ombuds Committee for Children's Rights) as part of the course on human rights

#### **In-service training for police officers**

93. The objective of in-service training is to refresh and expand police officers' professional knowledge and expertise. Every officer receives in-service training suited to his or her specific needs.

94. Police officers responsible for enforcing the removal of illegal aliens by plane follow an additional four-hour course to raise their awareness of the need to:

- Ensure respect for and uphold the dignity and the integrity of persons subjected to body searches
- Ensure respect for the dignity of the person to be expelled for the duration of the expulsion procedure
- Ensure that the in-flight menu is compatible with the person's religious beliefs

#### **Role of the Inspectorate General of the Police**

95. The Inspectorate General of the Police carries out regular checks on police detention and holding facilities throughout the country.

96. It handles any claims or complaints relating to allegations of inhuman treatment or torture by police officers.

#### **Identification of victims of human trafficking**

97. Police officers specializing in preventing and combating human trafficking take a specific training course. The course covers the legal framework applicable to human trafficking, operational matters, the action that should be taken by the police and the identification and treatment of victims, including their reception and the provision of information and support.

98. In-service training on human trafficking is regularly organized for police officers. Criminal Investigation Branch detectives have attended numerous courses and seminars on the subject in the past.

### **U. Reply to the issue raised in paragraph 9**

#### **Training**

99. The initial and in-service training for professionals is essential to facilitate the identification of victims and ensure that they are provided with adequate support. It also plays a central role in raising awareness of human trafficking and pursuing an effective anti-trafficking policy.

100. Article 9 of the Act of 8 May 2009 on Assistance to and the Protection and Security of Victims of Human Trafficking provides that police officers specializing in preventing and combating trafficking and immigration and support service staff are required to attend training courses on the identification of victims, human rights and protection against trafficking.

101. Labour inspectors, who play a role in identifying potential victims of human trafficking in the workplace, must be appropriately trained in the identification of victims of trafficking for the purposes of labour exploitation.

### **Prevention**

102. Article 11 of the amended Act of 8 May 2009 on Assistance to and the Protection and Security of Victims of Human Trafficking provides that the police force, the public prosecution service, the criminal courts, the support services and associations referred to in article 1 of the Act, and State entities involved in preventing and combating human trafficking must compile annual statistics concerning cases of human trafficking, disaggregated by sex, age, State of origin and means of trafficking and exploitation employed. The statistics must include the number of complaints received, prosecutions initiated, convictions handed down and protection and assistance measures afforded to victims. These data are passed on to the Monitoring Committee on Combating Trafficking in Persons established pursuant to article 10.

103. Through the Act of 9 April 2014 on the Strengthening of the Rights of Victims of Human Trafficking, the Advisory Commission on Human Rights was designated as the national rapporteur within the meaning of article 19 of Directive 2011/36/EU of the European Parliament and of the Council of 5 April 2011 on preventing and combating trafficking in human beings and protecting its victims. Article 1 of the Act provides that the national rapporteur must carry out assessments of trends in human trafficking, measure the results of anti-trafficking activities, including by gathering statistics in close cooperation with relevant civil society organizations active in the field, and submit reports at least every two years to the Chamber of Deputies.

104. A Grand Ducal Regulation on the composition, organization and functioning of the Monitoring Committee on Combating Trafficking in Persons issued on 10 March 2014 pursuant to article 10 of the Act of 8 May 2009 on Assistance to and the Protection and Security of Victims of Human Trafficking provides for the establishment of the Monitoring Committee and specifies that the Committee is responsible for implementing, monitoring and coordinating measures to prevent and analyse trafficking, centralizing and analysing the statistical data sent to it, and monitoring and evaluating the implementation of anti-trafficking legislation.

105. The Government has developed the capacity to conduct research into preventive strategies and plans to continue to support research into the prevention of human trafficking, given that the development of preventive strategies remains an important aspect of the fight against all forms of criminal behaviour.

## **V. Reply to the issue raised in paragraph 10 (a)**

106. The occupancy rate of all places of detention, including police stations:

- Luxembourg Prison as at 1 January 2019:  $584/597 = 97.82$  per cent
- Givenich Prison as at 1 January 2019:  $72/113 = 63.72$  per cent

107. Short-term detention cells in police stations:

- Are occupied by one person at a time
- Are occupied only for a few hours at a time, especially on weekends, when they are often used as a space for sobering up

108. It is therefore not possible to determine a precise occupancy rate. However, it is definitely always less than or equal to 100 per cent.

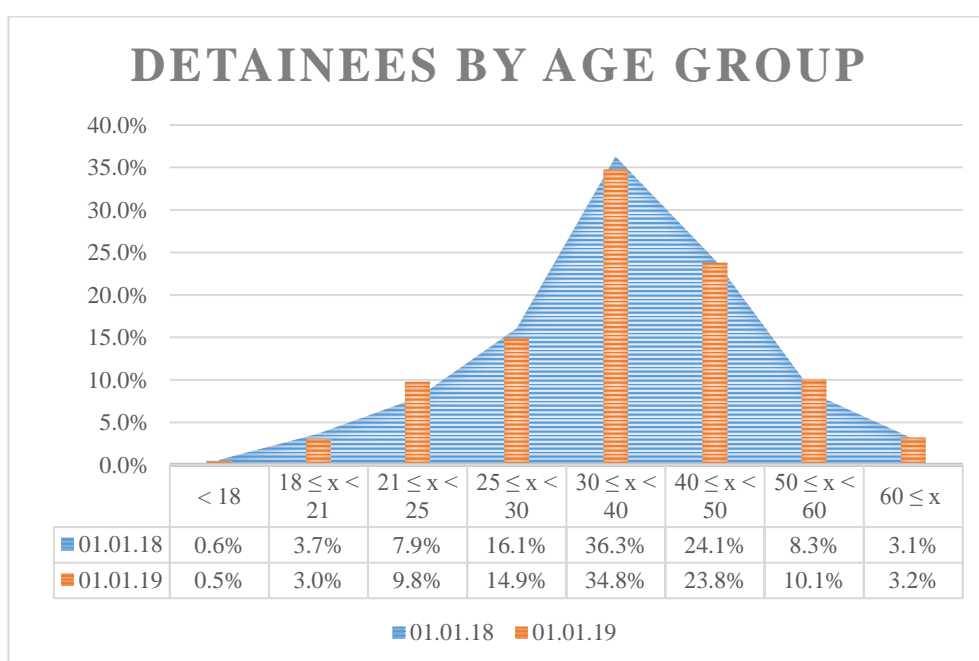
## W. Reply to the issue raised in paragraph 10 (b)

109. The number of pretrial detainees (disaggregated by sex, age group and ethnic origin or nationality), the proportion of the total number of prisoners who are in pretrial detention and the average and maximum duration of pretrial detention:

### Reply to paragraph 10 (b): By sex, as at 1 January 2019

	<i>Men</i>	<i>Women</i>
Luxembourg Prison	557	27
Givenich Prison	66	6
<b>Total</b>	<b>623</b>	<b>33</b>

### Reply to paragraph 10 (b): By age group, as at 1 January 2019



### Reply to paragraph 10 (b): By nationality, as at 1 January 2019

<i>Nationality</i>	<i>No. as at 1 January 2019 (Luxembourg and Givenich prisons)</i>	<i>Percentage of total population</i>
Luxembourg	165	25.15
Portuguese	94	14.33
Nigerian	63	9.60
French	50	7.62
Romanian	37	5.64
Algerian	21	3.20
Cabo Verdean	16	2.44
Italian	15	2.29
Georgian	13	1.98
Moroccan	13	1.98
Tunisian	13	1.98
Cameroonian	12	1.83
Lithuanian	12	1.83

<i>Nationality</i>	<i>No. as at 1 January 2019 (Luxembourg and Givenich prisons)</i>	<i>Percentage of total population</i>
The Netherlands	11	1.68
Belgian	10	1.52
Serbian	10	1.52
Guinea-Bissau	8	1.22
Libyan	8	1.22
Montenegrin	7	1.07
Latvian	6	0.91
Polish	6	0.91
German	5	0.76
Gambian	4	0.61
Bosnian	3	0.46
Brazilian	3	0.46
Croatian	3	0.46
Spanish	3	0.46
Iraqi	3	0.46
Iranian	3	0.46
Kosovan	3	0.46
Albanian	2	0.30
Angolan	2	0.30
Bulgarian	2	0.30
Egyptian	2	0.30
Macedonian	2	0.30
Russian	2	0.30
Senegalese	2	0.30
Slovakian	2	0.30
Turkish	2	0.30
United States of America	1	0.15
United Kingdom	1	0.15
Armenian	1	0.15
Burundian	1	0.15
Chinese	1	0.15
Dominican	1	0.15
Estonian	1	0.15
Gabonese	1	0.15
Ghanaian	1	0.15
Greek	1	0.15
Ivorian	1	0.15
Kenyan	1	0.15
Liberian	1	0.15
Moldovan	1	0.15
Sierra Leonean	1	0.15
South Sudanese	1	0.15
Syrian	1	0.15
Stateless	1	0.15

**Reply to paragraph 10 (b): Pretrial detention, as at 2 April 2019**

110. The situation with regard to pretrial detention in Luxembourg Prison as at 2 April 2019 was as follows:

- 334 persons in pretrial detention (309 men and 12 women)
- $334/584 = 57.19$  per cent of the population of Luxembourg Prison
- $334/656 = 50.91$  per cent of the combined population of Luxembourg and Givenich prisons

111. The average duration of pretrial detention in prison as at 2 April 2019 was 180 days.

112. The maximum duration of pretrial detention in prison as at 2 April 2019 was 1,251 days.

**X. Reply to the issue raised in paragraph 10 (c)**

113. The toilet areas in all cells in Luxembourg Prison are gradually being screened off. By the end of the refurbishment of Luxembourg Prison, all cells will meet the appropriate standards. In Uerschterhaff Prison, partitions will be erected in all double-occupancy cells.

114. Short-term detention cells in police stations are partitioned off and are single-occupancy. There is therefore no need for additional partitions.

115. With regard to the placement of mattresses in short-term detention cells, two pilot projects are currently under way.

**Y. Reply to the issue raised in paragraph 10 (d)**

116. Such practices have never been employed in the prisons of Luxembourg.

117. The Council of Europe Anti-Torture Committee noted in its report of September 2015 that the material conditions in short-term detention cells were very good.

118. The Committee's question therefore appears to relate to security cells, which are smaller than short-term detention cells and are located in police stations. Security cells are used only for very short periods of detention, for example, while a remand prisoner awaits the arrival of his or her lawyer or an interpreter.

119. All chairs with hoops for the attachment of handcuffs were removed from the police station in Luxembourg railway station.

**Z. Reply to the issue raised in paragraph 11 (a)**

120. Every detainee has the right to medical treatment according to the principle of equivalence of care. Medical treatment, adjuvant medicines and treatments and diagnostic tools are provided free of charge.

121. Tests and operations that cannot be conducted at Luxembourg Prison are performed at Luxembourg Hospital in the same conditions as those experienced by the general public. Luxembourg Hospital has two specially equipped cells allowing for the hospitalization of detainees.

122. The relevant regime is set out in article 26 of the Act on the Reform of the Prison Administration:

- (1) Every detainee has the right to sufficient and appropriate health care in accordance with his or her state of health. The Prison Administration shall ensure that the health-care services provided to every detainee are equivalent to the care that he or she could expect to receive were he or she at liberty. Such services shall be limited by the criteria of usefulness and necessity and shall be carried out in as economical a manner as is possible without undermining the effectiveness of the treatment and in



accordance with scientific data and medical ethics. The Prison Service shall organize access to health care and shall cover all associated costs and fees. Depending on the type of care required, care may be provided inside or outside the prison.

(2) Without prejudice to the care described in paragraph 1, every detainee shall be entitled to seek care on the premises of the prison from a doctor of his or her own choosing, in accordance with the legal and regulatory provisions of applicable ordinary law relating to health care and social security.

(3) In order to ensure the provision of care as described in paragraph 1, including care requiring transfer to a hospital, the Prison Administration may avail itself of the services of hospital-based and non-hospital-based health-care professionals. Outside the prison, the fees for health-care services shall be determined in accordance with the Social Security Code. Inside the prison, the minister shall regulate the organization of the health care provided to detainees through agreements negotiated with service providers.

(4) Health-care services provided shall be recorded in a medical file by the doctor treating the detainee. Without prejudice to the professional secrecy referred to in article 458 of the Criminal Code or any other obligation of professional confidentiality, the doctor treating the detainee, as well as all other professionals who may be bound by professional secrecy or an obligation of confidentiality, may exchange necessary information with the Prison Administration when doing so is in the interest of the detainee concerned, other detainees or staff; in the interest of security, safety and health conditions at the prison; or in the interest of other persons who have physical contact with detainees, including in relation to the control of contagious diseases.

(5) The provisions of ordinary law relating to the rights of patients shall apply to detainees, with the exceptions provided for in the present Act.

123. The amended Act of 10 December 2009 governs involuntary treatment and access to health care.

Amended Act of 10 December 2009:

- (a) on the Involuntary Hospitalization of Persons with a Mental Illness
- (b) amending the amended Act of 31 May 1999 on the Police Force and the Inspectorate General of the Police
- (c) and amending article 73 of the amended Communal Act of 13 December 1988 on Involuntary Treatment and Access to Health Care

Art. 6. During his or her hospitalization, every patient has the right to receive medical treatment that is appropriate to his or her state of health. This treatment must be based on an individualized treatment plan and performed by qualified medical and care professionals. It must be oriented towards the reintegration of the patient into society. Without prejudice to the provisions of articles 43 and 44 below, the treatment must be carried out with due respect for the freedom of opinion of the patient and his or her religious or philosophical beliefs. It should promote the physical health of the patient, as well as his or her contact with family and friends and his or her cultural development.

Amended Act of 17 April 1998 on the Establishment of the “Neuropsychiatric Hospital” Public Facility, as amended by the Act of 20 July 2018 on the Reform of the Prison Administration.

Art. 2-1. The facility shall run a psychiatric socio-judicial unit on the premises of Luxembourg Prison. The unit shall be managed independently from Luxembourg Prison.

**AA. Reply to the issue raised in paragraph 11 (b)**

124. The Neuropsychiatric Hospital recently reformulated its requirements with regard to the psychosocial judicial unit, which has considerably delayed its construction. The unit will not be operational for at least five years. In the meantime, psychiatric patients in detention will receive treatment at the Neuropsychiatric Hospital's BU6 rehabilitation unit.

**AB. Reply to the issue raised in paragraph 11 (c)**

125. All detainees undergo a medical examination within 24 hours of their arrival in Luxembourg Prison. For reasons of medical confidentiality, the Prison Administration is not informed of the scope of medical examinations or the content of medical reports.

126. Without exception, full medical examinations are performed on new arrivals at the Holding Facility within 24 hours of their admission by specially appointed doctors (see the amended Act of 28 May 2009 on the Holding Facility, art. 9).<sup>14</sup> All medical findings are entered into the individual medical file of the detainee concerned. Any injuries or bodily harm detected during the entry examination, as well as any claims made by the detainee regarding his or her state of health, alleged abuse or ill-treatment, inter alia, are recorded in his or her individual medical file.

**AC. Reply to the issue raised in paragraph 12 (a)**

127. The Act of 20 July 2018<sup>15</sup> on the Reform of the Prison Administration abolished strict solitary confinement.

128. It has been replaced with a more flexible form of solitary confinement that allows for contact with other prisoners unless the confined prisoner poses a danger to others.

129. This form of confinement allows for visits and also guarantees other prisoners' rights.

**AD. Reply to the issue raised in paragraph 12 (b)**

130. The relevant procedure is defined in articles 32 and 33 of the aforementioned Act of 20 July 2018.

**AE. Reply to the issue raised in paragraph 12 (c)**

131. According to articles 34 and 35 of the new Act, such decisions are administrative measures and are therefore subject to appeal before the director of the judicial branch and to judicial appeal before the Sentence Enforcement Chamber.

**AF. Reply to the issue raised in paragraph 12 (d)****The Prison Administration**

132. All complaints are recorded in a register.

**The Holding Facility**

133. Article 20 of the amended Act of 28 May 2009 on the Holding Facility sets out the disciplinary sanctions that may be imposed on adult detainees. These sanctions include isolation, which may not exceed five consecutive days. Article 19 of the aforementioned Act provides that sanctions must be proportionate to the nature and seriousness of the offence committed and may be ordered by means of a written decision only. Before a sanction is

---

<sup>14</sup> <http://data.legilux.public.lu/eli/etat/leg/loi/2009/05/28/n1/jo>.

<sup>15</sup> <http://data.legilux.public.lu/eli/etat/leg/loi/2018/07/20/a626/jo>.

applied, the detainee concerned, who is entitled to receive assistance from counsel and, if necessary, an interpreter, has the right to a hearing regarding the accusations against him or her with the director or a person delegated by the director. The detainee may exercise his or her right to be heard orally or in writing. The facts and, where applicable, the detainee's statement, are recorded in a written report. The detainee must be notified of the sanction in writing and may submit an appeal before the Administrative Tribunal in its capacity as a court of first instance, which must rule on the request as a matter of priority within three days of its submission.

134. Detainees placed in isolation undergo daily medical check-ups. A detainee must be removed from isolation if his or her physical or mental health is found to have deteriorated. The director may in any event order that the detainee be removed from isolation or that the isolation be broken up into shorter periods.

135. In principle, a detainee placed in isolation may not receive visits other than from his or her lawyer or from representatives of religious communities, the Ombudsman or international monitoring bodies. However, in order not to cut off all contact between the detainee and his or her family and loved ones, he or she is permitted to make telephone calls after 9.30 p.m., depending on his or her behaviour.

136. A record of all the disciplinary sanctions imposed by the director is kept in a special register.

137. Detainees may obtain a hearing with the management at any time by submitting a written request in advance. Similarly, they may submit a complaint at any time regarding the conditions of their detention or any restrictive measures imposed on them. Such complaints may be addressed to any competent authority.

138. In 2015, eight persons were placed in isolation; the average duration of their isolation was three and a half days.

139. In 2016, 10 persons were placed in isolation; the average duration of their isolation was two days.

140. In 2017, eight persons were placed in isolation; the average duration of their isolation was three days.

141. In 2018, eight persons were placed in isolation; the average duration of their isolation was three days.

## **AG. Reply to the issue raised in paragraph 13 (a)**

### **Number of deaths in custody and cause of death**

#### **Reply to paragraph 13 (a) (i): Deaths in Luxembourg Prison, 2015–2018**

<i>No.</i>	<i>Year</i>	<i>Age</i>	<i>Sex</i>	<i>Nationality</i>	<i>Cause of death</i>	<i>Comments</i>
1	2015	43	M	Portuguese	Natural causes	Died in hospital under supervision
2	2015	60	F	Luxembourg	Natural causes	Electronic
3	2016	37	M	Algerian	Natural causes	Died in hospital
4	2016	62	M	Luxembourg	Natural causes	Died in hospital
5	2017	57	M	German	Natural causes	
6	2017	75	M	Luxembourg	Natural causes	
7	2017	57	M	Macedonian	Natural causes	Died in hospital
8	2018	50	M	Luxembourg	Natural causes	
9	2018	43	F	Rwandan	Overdose	

**Reply to paragraph 13 (a) (i): Deaths in Givenich Prison**

142. There were no deaths in Givenich Prison between 2004 and 2018.

**Number of persons injured as a result of violence committed inside places of detention**

143. There have been no such cases.

**AH. Reply to the issues raised in paragraphs 13 (b) and (c)****The Prison Administration**

144. Training courses are regularly organized for prison guards.

145. Detainees considered to be at risk are usually segregated from other prisoners and transferred to a separate block. The prison psychiatric medical service makes every effort to identify persons experiencing suicidal urges and to prevent suicides by offering individual psychiatric support.

146. An evaluation of these services will start this year; such evaluations were not possible before the introduction of new legislation on the reform of the prison system.

**The Holding Facility**

147. No detainees have died in detention in the Holding Facility since it was opened in August 2011.

148. In 2017, a trainee detention officer used disproportionate force against a detainee who had spat in his face. The officer concerned was suspended with immediate effect as a result of his actions and his traineeship was terminated the following day.

149. In 2015, two Holding Facility officers aged 32 and 39 were injured by detainees. In 2016, four detention officers were injured by detainees. The victims were aged 48, 22, 30 and 46. In 2017, two officers were injured by detainees. They were 23 and 47 years old. That same year, a 34-year-old detainee was injured by another detainee. In 2018, a 31-year-old detainee was injured by another detainee.

150. In the event of an outbreak of violence, any persons injured, whether they be officers of the Holding Facility or detainees, are informed of their rights and encouraged to file a criminal complaint against their aggressor. Disciplinary proceedings are automatically initiated against the perpetrators of violence. The penalties imposed are proportionate to the acts committed and subject to appeal (see above). The Holding Facility is not informed of any criminal penalties imposed on perpetrators. The Holding Facility is not responsible for providing reparation to the victims of acts of violence, which is a matter for ordinary law.

151. The prevention of violence among detainees is an integral part of the Centre's guiding principles, which emphasize the importance of monitoring the psychosocial situation of each detainee. Such monitoring is firstly the responsibility of the detention officers, who are in permanent contact with the detainees and are therefore in a position to rapidly detect any abnormal or risk behaviour. The second stage of care is provided by a team of five professionals specializing in psychosocial support, including psychologists, social workers and qualified teachers, who work full time, have received specific training for their work in the Centre and provide support to a dozen detainees each on a daily basis. The team offers continuous counselling and extensive support to its patients and is able to defuse most conflicts before they become an issue. Detainees may also receive psychiatric care, if required. A psychiatrist is present at the Centre at least once a week (0.1 full-time equivalents) for consultations, while a psychiatric nurse is present from Monday to Friday (0.5 full-time equivalents). Since there have been no suicides or verified suicide attempts in the Centre to date, the preventive measures in place appear to be adequate and sufficient, although there are plans to increase the full-time equivalents of the Centre's psychiatrist in the near future.

## **AI. Reply to the issue raised in paragraph 14**

152. There are no guidelines on the detention of persons in an irregular migration situation, but decisions are taken on a case-by-case basis in the light of the specific circumstances of each migrant's case, in accordance with articles 111, 116 to 118, 120 and 125 of the amended Act of 29 August 2008 on the Free Movement of Persons and Immigration.<sup>16</sup> These articles provide that migrants may be placed in detention in a closed facility pursuant to a decision of the competent minister, unless the application of less coercive measures is feasible.

153. Detention may be ordered for a period of one month. It may be maintained only until the expulsion procedure has been executed with all due diligence. The detention may be renewed by the competent minister for a period of one month up to three times, if the required conditions continue to be met and the renewal is necessary for the purposes of the expulsion procedure. If, despite the efforts made, it appears likely that the expulsion procedure will take longer because of a lack of cooperation on the part of the person concerned or because of delays in receiving necessary documents from the third country, the period of detention may be extended up to two times, each time for a further month. Article 123 of the above-mentioned Act provides that an appeal may be lodged before the Administrative Tribunal in its capacity as a court of first instance within one month from the date on which notice of the detention order was served, and that the Tribunal must rule on the request as a matter of priority within 10 days of its submission. An appeal may be lodged with the Administrative Court within three days from the date on which notice of the decision of the court of first instance was served. The Court must rule on the appeal as a matter of priority within 10 days of its submission.

154. The minister has the power to order the detention of persons requesting international protection in five specific circumstances, which are set out in article 22 (2) of the International Protection and Temporary Protection Act of 18 December 2015. An appeal may be lodged before the Administrative Tribunal in its capacity as a court of first instance against the detention order or an order to apply one of the less coercive measures provided for under article 22 (3). The request must be lodged within three months from the date on which notice of the order was served. Paragraphs 4 and 5 of article 123 apply. An appeal may be lodged against the decision of the Administrative Tribunal within three days from the date on which notice of the decision was served. The Administrative Court must rule on the appeal as a matter of priority within 10 days of its submission. The execution of the decision annulling or reversing the contested order is suspended while the appeal is under consideration.

## **AJ. Reply to the issue raised in paragraph 15 (a)**

155. In 2015, 71 persons were placed in administrative detention on the basis of the amended Act of 5 May 2006 on the Right to Asylum and Complementary Forms of Protection<sup>17</sup> and the International Protection and Temporary Protection Act of 18 December 2015.<sup>18</sup> The average duration of their detention was 18 days.

156. In 2016, 74 persons were placed in detention on the basis of the International Protection and Temporary Protection Act of 18 December 2015. The average duration of their detention was 20 days.

157. In 2017 and 2018, 188 and 102 persons, respectively, were placed in detention on the basis of the aforementioned Act of 2015. The average duration of detention was 22 days in 2017 and 28 days in 2018.

## **AK. Reply to the issue raised in paragraph 15 (b)**

158. No unaccompanied minors were placed in administrative detention in the Holding Facility between the beginning of 2015 and the end of 2018. However, over the same period,

<sup>16</sup> <http://data.legilux.public.lu/eli/etat/leg/tc/2013/07/03/n2/jo>.

<sup>17</sup> <http://data.legilux.public.lu/eli/etat/leg/tc/2013/07/03/n1/jo>.

<sup>18</sup> <http://data.legilux.public.lu/eli/etat/leg/loi/2015/12/18/n15/jo>.

the Centre received 84 families, representing a total of 306 persons. The average duration of their detention was one day in 2015 and 2016, just under three days in 2017 and two days in 2018. Through the adoption of the Act of 8 March 2017 amending, inter alia, the amended Act of 28 May 2009 on the Holding Facility, the maximum duration of detention for families with children, and by extension for unaccompanied minors, was increased from 72 hours to seven days. However, although the maximum duration of detention has been extended, the average duration of detention has remained more or less the same.

159. Families in detention are placed in a separate block comprising 14 adjoining rooms and an outdoor courtyard with a playground for children. From the moment of their admission into the Holding Facility, families are subject to a detention regime that is less strict than that for single adult detainees. Entry checks are thus kept to a minimum; a basic pat-down search is performed on the parents and no checks are performed on the children. Families are held in adjoining rooms, with two persons per room. An extra, fold-down bed may be provided, if necessary. Unlike in the blocks housing single adults, room doors are not locked between 9.30 p.m. and 7 a.m., which means that family members may move freely throughout the block and the adjoining outdoor courtyard (access to the courtyard is blocked during mealtimes and at night). Since the average duration of their stay is very short, families in detention are given priority treatment when it comes to visits and activities. Thus, for example, as an exception to the rules normally applied, visits can be requested for later the same day and exceptions can be made to the usual visiting hours. Age-appropriate games and toys are made available to children during their stay. There is a television in each room and a games console is installed in the block's refectory when children are staying there.

160. The psychosocial support service provides particularly attentive support to families. Children are of course provided with food that is appropriate to their age and dietary requirements. Parents are provided with any hygiene items that they may need for their children.

#### **AL. Reply to the issue raised in paragraph 15 (c)**

161. The table below shows the number of detainees placed in administrative detention at the Holding Facility on the basis of the amended Act of 29 August 2008 on the Free Movement of Persons and Immigration per year and the average duration of their detention.

<i>Year</i>	<i>No. of detainees</i>	<i>Average duration of detention</i>
2015	190	48
2016	210	60
2017	206	54
2018	245	52

#### **AM. Reply to the issue raised in paragraph 16**

162. Statistical data on the number of complaints received and police reports issued regarding torture and ill-treatment, and on the number of investigations opened, prosecutions initiated and sanctions imposed, as provided by the General Inspectorate of the Police:

	2016		2017		2018	
	<i>No. of cases</i>	<i>Judicial proceedings</i>	<i>No. of cases</i>	<i>Judicial proceedings</i>	<i>No. of cases</i>	<i>Judicial proceedings</i>
Torture	0	0	0	0	0	0
Ill-treatment/ Violence	10	8 cases dismissed, 2 ongoing	7	5 cases dismissed, 2 ongoing	7	3 cases dismissed, 4 ongoing
Racism/ Xenophobia	1	Dismissed	1	Ongoing	3	1 case dismissed, 2 ongoing

## AN. Reply to the issue raised in paragraph 17

163. Pursuant to articles 3-4 and 4-1 of the Code of Criminal Procedure, the alleged victim must be notified as a matter of course if his or her case has been dismissed and upon request of the opening of any investigations and any declaratory judgments made by the trial courts.

164. The public prosecutor or the investigating judge must provide the alleged victim of ill-treatment or acts of torture with detailed information regarding the decision to dismiss his or her case.

165. The information provided to the alleged victim must indicate the conditions under which he or she may initiate private prosecution proceedings or bring civil indemnification proceedings. It must also indicate that the victim is entitled to petition the Attorney General, who has the power to order the public prosecutor to initiate criminal proceedings. This is, in effect, a form of appeal against the initial decision of the public prosecutor.

166. The Act of 8 March 2017 strengthened the right of the victim to be informed (see ad para. 2).

167. Within the public prosecutor's offices and the Attorney General's Office, only prosecutors, the Attorney General and assistant prosecutors handle cases of torture and ill-treatment. Such cases are thus handled by experienced legal professionals separately from day-to-day business.

168. It is clear from the above that, in Luxembourg, there is no question of discretionary prosecution without oversight, and that decisions to dismiss a case can be appealed.

169. As a matter of principle, public prosecutors exercise their discretion to prosecute in accordance with the provisions of the Code of Criminal Procedure, including paragraphs 4 and 5 of article 23, which establish, inter alia, an obligation to inform the alleged victim of the remedies available to him or her.

170. Annual statistics on the number of investigations into cases of alleged torture:

- In 2013, a complaint of torture was filed with the Attorney General. Following an investigation, a dismissal order was issued by the court in chambers.
- In 2015, a statement was taken regarding acts of torture. Following an investigation, the case was dismissed and no criminal proceedings were brought.
- In 2016, criminal indemnification proceedings were filed with the head investigating judge for acts of torture. Following an investigation, a dismissal order was issued by the court in chambers.
- No cases of torture or ill-treatment have been reported by doctors following medical examinations on detainees.

**AO. Reply to the issue raised in paragraph 18 (a)**

171. The Inspectorate General of the Police was reorganized pursuant to the Act of 18 July 2018 on the Inspectorate General of the Police.<sup>19</sup>

172. The central purpose of this reorganization was to strengthen the independence of the Inspectorate General.

173. The following measures were taken to strengthen the independence and impartiality of the Inspectorate General:

- The Inspector General must be a former member of the judiciary.
- The Inspectorate General is no longer composed of police and civilian personnel seconded from the police force but rather has its own staff, allowing it to function as a public authority in its own right.
- The Act establishes a principle of “non-return”, according to which the staff of the Inspectorate General may not transfer into the police force.

**AP. Reply to the issue raised in paragraph 18 (b)**

174. Police officers may be reassigned or suspended from duty in the cases referred to in articles 14 and 15 of the Act of 18 July 2018 on the Disciplinary Code of Members of the Grand Ducal Police Force.

Article 14. Any police officer who is subject to investigation or pretrial proceedings in application of the provisions of the Code of Criminal Procedure or to disciplinary proceedings and whose presence in the workplace is incompatible with the proper conduct of the preliminary investigation, the pretrial proceedings or the disciplinary proceedings may be temporarily reassigned to another service of the police force.

Article 15 (1). Any police officer who is subject to investigation or pretrial proceedings in application of the provisions of the Code of Criminal Procedure or to disciplinary proceedings and whose continued employment in the police force is incompatible with the interests of the service or the proper conduct of the preliminary investigation, the pretrial proceedings or the disciplinary proceedings may be suspended from duty.

**AQ. Reply to the issue raised in paragraph 19**

175. No claims for compensation have been presented before the criminal or civil courts of Luxembourg. Consequently, no redress or compensation measures have been granted by the courts.

**AR. Reply to the issue raised in paragraph 20**

176. See the reply provided in relation to article 10, paragraphs 8 and 9.

**AS. Reply to the issue raised in paragraph 21**

177. The security unit of the Dreibern State socio-educational centre has been operational since 1 November 2017. Since then, it has been able to house 12 minors on referral from the juvenile judge.

178. In accordance with articles 2 and 7 of the amended Protection of Young People Act of 10 August 1992, minors cannot be held criminally responsible.

---

<sup>19</sup> <http://data.legilux.public.lu/eli/etat/leg/loi/2018/07/18/a623/fo>.



179. When a minor commits an act classed as a criminal offence, he or she is brought before the juvenile court, which is a specialized court for minors, rather than before a criminal court.
180. The juvenile court imposes custodial, educational and protective measures within the meaning of article 1 of the above-mentioned Act, rather than criminal penalties.
181. Such measures, which are imposed on minors as a consequence of their having committed a criminal offence, include warnings and community service.
182. Community service consists of a fixed number of hours of unpaid work for a charitable institution, for the benefit of society.
183. The minor performs this unpaid work with the assistance and under the supervision of the Central Social Assistance Service.
184. The minor may also be placed in the custody of a member of his or her family, with a foster family, in a shelter or in a State socio-educational centre, which is an open facility.
185. The public prosecutor may also order mediation, thus avoiding the need for the minor to be brought before the juvenile court. Mediation is a restorative justice measure.
186. Such a measure is ordered only when a custodial measure is unavoidable in view of the seriousness of the acts committed by the minor and his or her attitude, personality and behaviour.
187. The detention of minors has primarily been carried out in the security unit of the State socio-educational centre since it was opened on 1 November 2017.
188. Although the law still provides for the possibility of placement in prison, the public prosecutor's offices have issued a circular setting out very restrictive conditions for such placement.
189. A total of five minors were sent to prison in 2018. Three of the minors were placed in temporary custody for 19, 25 and 31 days, respectively. The fourth minor, who had already spent time in Luxembourg Prison in 2017 and had been released on probation, violated his probation and was sent back to the Prison, where he remained from 10 January 2018 to 27 April 2018, when he was transferred to the security unit of the State socio-educational centre. The fifth minor was held in prison for half a day in 2018 because there was no space in the security unit. He was then transferred to an open facility. At the time of writing, no minors have been placed in prison in 2019.
190. Article 32 of the amended Protection of Young People Act establishes an exception to the rule that minors cannot be held criminally responsible. Any minor who has reached the age of 16 and who commits an act classed as a criminal offence, depending on the seriousness of the act and the personal maturity of the minor, and where the application of a custodial, educational and protective measure has proven ineffective, may be brought before the ordinary criminal courts. This procedure is known as "referral in accordance with the usual powers and procedures".
191. It is an exceptional and formal procedure that requires the submission of a written request by the public prosecutor and the issuance of a reasoned, written decision by the juvenile judge or the juvenile court.
192. The minor or his or her parents or guardian may lodge an appeal against this decision.
193. In deciding whether a minor can stand trial under the ordinary criminal procedure, the juvenile judge must specifically assess whether the minor in question is sufficiently mature to follow the procedure and face a criminal penalty. The judge must have concluded that a custodial, educational and protective measure based on juvenile protection legislation would be inadequate and unsuccessful, in view of the seriousness or the repeated nature of the offence and in the light of the outcome of previous protective measures taken in respect of the minor in question.
194. This procedure is rarely applied, as the figures to be provided by our statistics service will confirm.

### **III. General information on the national human rights situation, including new measures and developments relating to the implementation of the Convention**

#### **AT. Reply to the issue raised in paragraph 22**

195. In June 2015, the Government in council decided to institute an Inter-ministerial Human Rights Committee responsible for coordinating the Government's efforts to monitor the implementation of international human rights law in Luxembourg, including by sending regular reports to the United Nations treaty bodies.

196. An updated version of the common core document is currently being prepared and will be ready in time for the presentation of the next periodic reports of Luxembourg on the implementation of the International Covenant on Civil and Political Rights and the International Covenant on Economic, Social and Cultural Rights.

197. The working sessions of the Inter-ministerial Human Rights Committee, which bring together representatives of all the ministries and authorities involved in promoting human rights every six to eight weeks, are followed by consultations with civil society and national human rights institutions.

198. The Inter-ministerial Human Rights Committee also monitors the follow-up given to the recommendations received by Luxembourg as part of the universal periodic review of the Human Rights Council (the most recent review of Luxembourg took place on 18 January 2018 and Luxembourg has indicated its intention to undergo a mid-term review in the near future). The work of the Inter-ministerial Human Rights Committee is coordinated by the Ministry of Foreign and European Affairs. Its meetings are chaired by the Ambassador-at-Large for Human Rights.

---