



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

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Summary record of the 1987th meeting

Held at the Palais Wilson, Geneva, on Wednesday, 26 April 2023, at 10 a.m.

Chair: Mr. Heller

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The meeting was called to order at 10 a.m.

Consideration of reports submitted by States parties under article 19 of the Convention *(continued)*

Eighth periodic report of Luxembourg (CAT/C/LUX/8; CAT/C/LUX/QPR/8)

1. *At the invitation of the Chair, the delegation of Luxembourg joined the meeting.*
2. **Ms. Goedert** (Luxembourg), in a pre-recorded video statement, introducing her country's eighth periodic report (CAT/C/LUX/8), said that, since her Government's last dialogue with the Committee, it had taken a range of measures to improve implementation of the Convention. At the international level, the country's dedication to human rights had led it to provide support on an annual basis to the United Nations Voluntary Fund for Victims of Torture, the United Nations voluntary trust fund on contemporary forms of slavery and the Association for the Prevention of Torture. Luxembourg also supported the Principles on Effective Interviewing for Investigations and Information Gathering (the Méndez Principles) and the 8 March Principles for a Human Rights-Based Approach to Criminal Law Proscribing Conduct Associated with Sex, Reproduction, Drug Use, HIV, Homelessness and Poverty.
3. At the national level, the Act of 8 March 2017 had strengthened procedural guarantees for persons deprived of their liberty. The amended Act of 18 July 2018, which aimed to modernize the legal framework governing the Grand-Ducal Police, had been followed by the Act of 3 February 2023, which amended the Code of Criminal Procedure in relation to searches of persons by the police. In November 2019, a new code of ethics had been adopted for the Grand-Ducal Police, with a view to guaranteeing respect for citizens' fundamental rights and civil liberties. The code was binding and compliance therewith was overseen by the General Police Inspectorate.
4. In March 2022, several bills on children's rights had been put forward, all of which took full account of recommendations from international bodies. One bill called for an in-depth reform of child protection. Other bills set out the implementing regulations for the Act of 20 July 2018, on reform of the prison system. That reform included measures to ensure respect for the fundamental rights of detainees, single-occupancy cells to improve detainees' security and well-being and improved access to health care for detainees.
5. Several laws had been adopted with a view to combating human trafficking, one of which had approved the ratification of the Protocol to the Forced Labour Convention, 1930 (No. 29), of the International Labour Organization, while another had guaranteed residence permits to trafficking victims throughout the related judicial procedures. In addition, awareness-raising campaigns had been undertaken, targeting both potential victims and the general public. Since the outbreak of the war in Ukraine, a special page for potential victims from that country had been added to the government website on combating trafficking.
6. Significant efforts had been made to improve the prison system. A new prison had been opened, the Uerschterhaff Prison, for men in pretrial detention. It had been constructed in response to the need to separate men in pretrial detention from those who had been convicted and to avoid prison overcrowding.
7. The aforementioned measures had been presented in detail to the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment during its recent visit to Luxembourg. The European Committee's recommendations would be examined in detail. Her Government would continue to work for the respect, protection, promotion and full realization of human rights and would strive to implement the recommendations of the Committee against Torture following the interactive dialogue.
8. **Mr. Touzé** (Country Rapporteur), thanking the delegation for having submitted such a detailed report in a timely manner, said that he would like updated information on the occupancy rates of all places of detention, including police holding cells. He would be interested in learning more about what circumstances would justify the holding of an individual in police custody. As keeping persons in police custody deprived them of their liberty and therefore potentially infringed their rights, he wondered whether the State party might consider improving the applicable legislation.

9. It would be useful to know how the State party guaranteed the rights of persons deprived of their liberty, including their right to consult a lawyer, from the moment they were taken into custody. He would like to know the current situation regarding detainees' right to an immediate medical examination upon detention. In particular, he wished to know whether the Ombudsman's recommendation that such examinations should be carried out without the presence of a law enforcement officer and that the detainee should not be handcuffed had been implemented. Article 39 of the Code of Criminal Procedure provided that detained persons must be informed of the date and of the acts that justified their placement in police custody, but not of the location where those acts had occurred. He wondered whether that was simply a legislative oversight and whether law enforcement officials were instructed to inform individuals of where the acts leading to their arrest had taken place. Might the State party consider amending its legislation to ensure that complete information was provided?

10. He would appreciate information, disaggregated by sex, age, ethnic origin and nationality, on the total number of persons held in pretrial detention compared to the total number of persons deprived of their liberty. Under the State party's legislation, individuals accused of offences punishable under criminal law could be placed in pretrial detention because they were presumed to be a flight risk. As the proportion of detainees in the State party who were being held in pretrial detention was reportedly very high – 43 per cent compared to a European average of 28 per cent – the Committee was concerned that the presumption of flight risk made it too easy to place individuals in pretrial detention. He would like the delegation to explain the justifications for the unusually high proportion of detainees in pretrial detention and for the automatic presumption of flight risk. The delegation was also invited to respond to the Committee's concerns that there was no maximum length for pretrial detention under the State party's laws.

11. The Committee welcomed the steps taken to ensure that convicted prisoners were separated from pretrial detainees. However, it would also suggest that the State party explore alternatives to imprisonment. In that connection, the Committee would like more concrete information on how judges were encouraged to use such alternatives.

12. Draft regulations for the prison system proposed in 2022 provided that a relative of a detainee should be notified within 24 hours of the detainee's arrival at a detention centre and that the detainee should be notified of his or her rights and obligations within two days. He wondered whether the regulations could be revised to provide for the right of detainees to contact a relative and to be notified of their rights immediately. He also wondered whether the draft regulations included provisions ensuring proper conditions for pregnancy, childbirth and post-partum care for women who gave birth in places of detention and whether infants and young children were allowed to remain with their mothers in prison.

13. He would like to know more about how the cost of health care for detainees was covered. The right to consultation with a doctor was guaranteed within 24 hours of arrival at the place of detention. He wondered whether it might be possible to guarantee the right to see a doctor immediately upon arrival. It would be interesting to learn why responsibility for monitoring conditions related to food, heating, hygiene, lighting, ventilation and the cleanliness and condition of beds had been transferred from a doctor working at the prison to the director of the prison. The delegation was invited to explain how that transfer of responsibility would ensure better conditions of detention. While he welcomed the considerable improvements made to conditions of detention for persons with psychiatric problems, he wondered whether neuropsychiatric hospitals in the State party had sufficient capacity to accommodate all detainees requiring such care and whether the State had considered establishing additional specialist hospital facilities to ensure that persons in detention received the same level of care as persons not in detention.

14. He wished to know whether the State party planned to introduce additional guarantees to ensure that full body searches – meaning those in which the person being searched must undress but was not subjected to a cavity search – were used only where absolutely necessary and whether any less intrusive alternatives to body searches, such as scanners, were being considered. He also wondered whether the State party intended to adopt specific rules to ensure that inmates were given sufficient advance warning about prohibited behaviours for which disciplinary measures could be imposed. The Committee was concerned to note that the State party's laws continued to provide for the possibility that minors could be placed in

adult detention centres. It would be useful to know what measures were envisaged to put an end to that practice. While he was pleased that the European Committee for the Prevention of Torture had found no allegations or evidence of ill-treatment of inmates by prison staff, he was concerned by reports of high levels of violence between inmates. It would be interesting to learn what the State party was doing to combat such violence, including drug-related incidents.

15. He would be grateful if the delegation would provide updated disaggregated data on victims of trafficking in persons in the State party. It would be useful to know whether the Monitoring Committee on Combating Trafficking in Persons was conducting annual reviews of actions taken to combat trafficking in persons and, if so, what the findings of those reviews had been. He wondered what steps had been taken to prevent forced labour and child prostitution and whether the State party planned to strengthen its laws on child prostitution, for example by incorporating provisions relating to complicity and aggravating circumstances.

16. He commended the extensive legal provisions in place to protect women's rights. However, it appeared that there might still be room for improvement with regard to statistics on gender-based violence, as the Gender Equality Observatory collected almost no statistics on psychological and sexual violence against women. Data on femicide and sexual harassment were also missing. Moreover, the statistics on murder and attempted murder by a partner appeared disproportionately low, which raised doubts about their completeness. He would welcome clarification regarding the term "reported victims" (*victimes signalées*) used by the Gender Equality Observatory. Did it refer to victims of domestic violence who had lodged complaints or more broadly to victims who had approached a social services agency?

17. He wished to know whether the State party planned to establish specialist units within the police force and the judiciary to handle cases of domestic violence and violence against women in general. It would also be useful to learn whether the State party planned to build more shelters for victims and whether the temporary expulsion of alleged perpetrators from the family home was considered the only and the best option for protecting victims in cases of domestic violence. He wondered whether Bill No. 7949 on combating child sexual abuse and sexual exploitation, which would extend the statute of limitations for rape and other sexual crimes, had been adopted and brought into force. Lastly, he would like to know whether the State party intended to renew its contribution to the United Nations Voluntary Fund for Victims of Torture.

18. **Ms. Maeda** (Country Rapporteur) said that the State party's ratification of the Convention on the Reduction of Statelessness and its adoption of a domestic law on protection of asylum-seekers were commendable. She would like to hear the delegation's thoughts on why the number of asylum applications had declined since 2017. She would also appreciate information on how many applications had been received and granted since 2019 and on what criteria were given priority when deciding whether to grant protection. She wondered whether existing asylum structures were capable of absorbing the recent influx of Ukrainian asylum-seekers. She would be grateful if the delegation could provide updated data on the number of appeals filed against expulsion or extradition orders on the grounds that the applicant would be at risk of being subjected to torture in the destination country and on the outcome of those appeals.

19. It would be useful to know the outcome of the complaint filed in 2020 by a non-governmental organization against State agents for attempting to dissuade individuals from applying for asylum. She would also welcome information on the human rights training provided to State agents responsible for asylum procedures and on the training provided to police, immigration and medical staff and other frontline workers to ensure the timely identification and treatment of all migrants and asylum-seekers who were victims of torture.

20. The Committee would welcome information on the State party's plans to suspend or abolish the examination of secondary sex characteristics to determine the age of applicants for international protection who did not possess identity documents. There were reports that financial support for asylum-seekers did not meet daily living costs and that no financial support was provided to help asylum-seekers cover the costs of family reunification. She wondered what steps had been taken to improve support for asylum-seekers, ensure that

organizations that assisted asylum-seekers received sufficient financial resources and facilitate family reunification. It would also be useful to have information on the steps taken to ensure that unaccompanied minors did not become stuck for long periods in an initial reception facility, as well as updated figures on the number of medical professionals recruited to work with that group. It would also be good to hear whether medical professionals had received training on working with minors seeking international protection who were victims of sexual violence and whether the State party had established, or planned to establish, focal points to facilitate cooperation between social assistance and health-care services for unaccompanied minors.

21. She would like to know whether the State party had refused any surrender or extradition requests because of potential violations of human rights, as provided under article 3 of the Convention and the Council Framework Decision of 13 June 2002 on the European arrest warrant and the surrender procedures between member States. She would also be grateful for information on extradition agreements concluded with States outside the European Union and on whether the crime of torture was included as an extraditable offence under those agreements. In addition, she would like to learn what legislative and administrative measures were in place to allow the Convention to be invoked as a legal basis for extradition if an extradition request was received from a State with which Luxembourg did not have an extradition agreement.

22. Given the reported rise in hate crimes and hate speech in the State party, particularly in the media and online, it would be good to have information on the concrete measures adopted to combat racism and hate speech. It would also be useful to have information on the legal frameworks for criminal and civil proceedings in cases of racism and hate speech and on the status of any cases lodged with the courts. Furthermore, she would welcome information on the National Integration and Anti-Discrimination Action Plan and the specific measures contained therein.

23. In the light of reports that some intersex children underwent unnecessary sex assignment surgery, which could amount to cruel, inhuman or degrading treatment, the Committee was keen to hear what legislative measures had been introduced to prohibit such medical procedures in the absence of a medical emergency and what preventive safeguards existed in law and in practice, particularly with regard to free and informed consent. It would be useful to know the number of intersex children in the State party and the number of non-urgent surgical procedures performed on such children. The Committee would welcome information on the support, including impartial psychosocial counselling services, provided to intersex persons and their families. Information on the status of implementation of the National Action Plan for Promotion of the Rights of Lesbian, Gay, Bisexual, Transgender and Intersex Persons would also be appreciated.

24. She wished to know the criteria and thresholds for the use of force by law enforcement officers. She would also like to know whether the applicable legislation aligned with the Code of Conduct for Law Enforcement Officials, the Basic Principles on the Use of Force and Firearms by Law Enforcement Officials and other relevant international standards. She would be interested to hear how the State party planned to ensure that draft legislation on the use of body cameras by police officers reflected the principles of necessity, proportionality and legality. She wondered whether the use of body cams had been piloted and the fairness and effectiveness of their use evaluated.

25. It would be good to hear how the State party planned to implement the recommendations of the Subcommittee on Accreditation of the Global Alliance of National Human Rights Institutions, which had recommended legislative changes to limit the reappointment of members and the re-election of the president of the Advisory Commission on Human Rights, recruit full-time, paid members to the Commission's decision-making body and enable it to submit reports directly to the legislature. It would also be useful to know how the State party planned to strengthen the competence of the Advisory Commission.

The meeting was suspended at 11.50 a.m. and resumed at 12.10 p.m.

26. **A representative of Luxembourg** said that police custody was used mainly to mitigate the risk that an arrested person would flee the country. That risk was considered substantial, given that Luxembourg was a small country with three highly permeable

international borders and that foreign nationals made up more than 70 per cent of the prison population. It was therefore important that the police and the public prosecutor's offices had the discretion to hold an individual in police custody to prevent flight. Those provisions were unlikely to be changed.

27. According to the latest figures, 326 men and 19 women were in preventive detention, representing 49 per cent of the total prison population of 705, a small drop from the 334 detainees, or 51 per cent of the total of 656, in preventive detention in 2019. The average period of preventive detention was currently 182 days and the maximum period 1,071 days, compared with 180 days and 1,251 days, respectively, in 2019. Investigations in Luxembourg often dealt with offences that involved some activity outside the country. That complicated investigations because it required cooperation with foreign authorities, making the process unpredictable. It would therefore be difficult to establish a maximum legal period of preventive detention. That said, accused persons could apply for pretrial release. Bill No. 7991 provided that preventive detention of minors should be kept as brief as possible; it was not to exceed a period of three months, although it could be extended by the investigating judge for up to one year if required in order to establish the truth.

28. Sentence adjustments, such as semi-custodial arrangements, electronic monitoring, suspended sentences and conditional release, could be ordered by the Attorney General's Office on a discretionary basis as alternatives to custodial sentences. Since the passing of prison reforms in 2018, semi-custodial arrangements, which had previously been possible only when the full or remaining sentence was less than two years, could be granted from the first day of imprisonment.

29. All detainees had the right to medical care. Diagnostic services, treatment and all medication were provided free of charge. Examinations and interventions that could not be carried out in prison were performed in cells designed for treating prisoners in public hospital facilities. Regarding the possibility of detainees undergoing a medical examination immediately upon arrival at a detention centre, a provision to that effect was included in draft regulations on the detention of minors. Given the constraints faced in adult prisons, however, closer analysis was needed before a similar provision could be applied to adult detainees.

30. Article 48-11 bis of the Code of Criminal Procedure and article 8 bis of the Act of 18 July 2018, on the Grand-Ducal Police, strictly regulated body searches. Under their terms, the person being searched could be held only for the time strictly necessary for the procedure, which took place out of sight of third parties and with clothing being removed in two stages. Body searches were carried out by a police officer of the same sex as the person being searched. Simple searches could be carried out by electronic means, for example using a scanner.

31. Draft regulations on the internal organization of prisons specifically listed the behaviours that could lead to disciplinary measures. Those behaviours included interfering in the affairs of a fellow inmate; receiving objects, materials or substances from outside without authorization; refusing compulsory work without having been exempted; being absent from workshops, worksites, yards or other common places without authorization; and wasting water or food.

32. Draft legislation currently under consideration stipulated that custodial sentences for minors should be applied by the investigating judge only as a last resort, only if the minor had reached the age of criminal responsibility and only for offences carrying a custodial sentence of more than 3 years. It also provided for alternative measures to help support the minor's education.

33. **A representative of Luxembourg** said that Bill No. 7276 of 2018, on the introduction of a protection regime for minors, had been withdrawn and replaced by Bills No. 7991, 7992 and 7994, which distinguished for the first time between the protection of minors and the punishment of juvenile offenders and established specific procedural guarantees for minors. Under the new draft laws, deprivation of liberty would no longer be applicable to persons below the minimum age of criminal responsibility or as a child protection measure. In addition, young offenders would no longer be sent to adult prisons; instead, they would be sent to the Security Unit (Unisec) at the State Socio-Educational Centre at Dreiborn, which had been opened in recent years to accommodate minors deprived of their liberty and which

had already considerably reduced the number of young offenders sent to adult prisons. The draft laws also guaranteed any minor involved in judicial proceedings the right to a lawyer appointed by the Bar Association from the beginning of the process.

34. **A representative of Luxembourg** said that a list of duty lawyers enabled persons deprived of their liberty to contact a lawyer around the clock, even when their own lawyer was not available. Police questioning forms now included checkboxes that were used to inform persons deprived of their liberty of exactly which rights they were entitled to. Their rights were also stated at the end of questioning and printed on the interview form to be signed by the person concerned. Statements of rights were available in 20 languages. Police officers were able to consult detailed internal regulations to ensure that they were fully aware of the rights enjoyed by persons deprived of their liberty, depending on each case. When the amended Code of Criminal Procedure had been adopted in 2017, all operational staff had been given face-to-face training on the changes to procedural safeguards. That training was now available online. The basic training of officers currently included a 12-hour human rights course; a 12-hour course on constitutional principles, fundamental rights and civil liberties; and 60-hour courses on the Code of Criminal Procedure and the Criminal Code. The medical examination of persons deprived of their liberty usually took place in a hospital, with a police officer present for safety and security purposes. The detainee was required to wear handcuffs only if the officer left the room during the examination.

35. **Mr. Dockendorf** (Luxembourg), speaking as head of the delegation, said that one explanation for the increased detection of cases of trafficking in persons was the improved training of managers and inspectors of the Labour and Mines Inspectorate, who were responsible for identifying victims of trafficking. More training was also being provided on the subject in the construction and catering sectors, where trafficking cases were more common. Trafficking victims who had been sexually exploited could find support at the DropIn service, a Luxembourg Red Cross dispensary with trained staff that was open to all prostitutes, transvestites and transsexual persons, irrespective of nationality, legal status or age. The National Reception Office also had personnel trained to support victims of sexual exploitation. A new action plan on human trafficking was currently being drawn up with the participation of numerous stakeholders.

36. **A representative of Luxembourg** said that, although the laws of Luxembourg did not currently recognize the crime of femicide per se, a provision had been introduced into the Criminal Code establishing that hatred based on certain characteristics intrinsic to a person, including the person's sex, was an aggravating circumstance in any offence. Hence, a prosecutor or judge could apply that provision to femicide, which could be viewed as a crime motivated by hatred based on the victim's sex.

37. **Mr. Dockendorf** (Luxembourg) said that the Gender Equality Observatory had been fully operational since 2022. The competent Ministry was currently finalizing a more analytical report covering the seven areas in which the Observatory had gathered data. The domestic violence statistics of the Observatory supplemented those of the Committee on Cooperation between Professionals in the Field of Combating Violence, which included figures on psychological and sexual violence. Other forms of violence could perhaps be monitored in a more comprehensive manner.

38. The term "reported victim" referred to any person identified as a victim during police interventions in domestic violence cases, even if that person had not necessarily filed a complaint. In cases of domestic violence, expulsion of the perpetrator from the family home was used mainly to protect victims. Recommendations on alternative approaches and best practices in the field would be welcomed.

39. The general shortage of affordable housing complicated the provision of shelters for women in distress, especially as the increasing duration of some stays was leading to longer waiting lists. Luxembourg currently had 166 places in shelters for women victims of domestic violence and approximately 10 for male victims. There were also 95 places in supported housing units for victims wishing to live independently. The Government was committed to raising public awareness of the problem of domestic violence and was placing more focus on perpetrators with a view to preventing such violence and lowering re-offending rates.

The meeting rose at 1 p.m.