



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

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**List of issues to be considered during the examination of the
fifth periodic report of LUXEMBOURG (CAT/C/81/Add.5)**

Article 3

1. Please provide detailed information on the new asylum procedure adopted on 5 May 2006, and on the remedies available if the application for asylum is rejected.
2. Can an individual from a third country that has been declared “safe” by the Grand Duchy of Luxembourg claim that, in his or her particular case, he or she risks being subjected to torture if extradited, returned or expelled? Please also indicate the criteria the State party uses to draw up and update the list of third countries declared “safe”.
3. Please indicate in what cases Luxembourg would seek diplomatic assurances from a third country to which an individual is to be extradited, returned or expelled. Please also provide examples of cases in which the authorities did not proceed with the extradition, refoulement or expulsion of an individual for fear that he or she would be tortured. On the basis of what information were any such decisions taken?
4. Please provide detailed information on cells located in the basement of police stations and customs posts used to hold aliens in administrative detention. Please also provide a complete updated list of detention centres, in particular for aliens at the disposal of the authorities.
5. Please provide further information about the treatment, in law and in practice, of aliens, particularly women, who are at the disposal of the authorities. In addition, please clarify the situation with regard to the isolation of aliens.

6. Please indicate the maximum period of time for which an alien at the disposal of the authorities can be detained under the Grand Ducal regulation of 20 September 2002, which established a holding centre in Luxembourg prison.
7. Does Luxembourg envisage establishing facilities outside prison to accommodate aliens at the disposal of the authorities?
8. Please indicate whether aliens at the disposal of the authorities are informed as soon as possible of remedies available to them and in a language that they understand.
9. Please indicate whether any complaints have been received concerning acts of torture and cruel, inhuman or degrading treatment, including acts ruled as unintentional homicide, committed in the process of extradition, refoulement or expulsion since 2002. If so, please provide statistics and indicate what type of injuries the complainants sustained. What was the result of those complaints as far as prosecution, punishment and compensation are concerned? Please give specific examples.
10. Please clarify the conditions in which Igor Beliatshii was expelled to his country of origin on 12 October 2006.
11. Please provide data disaggregated by age, sex and nationality for the years 2003, 2004 and 2005 on:
 - (a) The number of asylum applications registered;
 - (b) The number of successful asylum applications;
 - (c) The number of asylum-seekers whose application was accepted because they had been tortured or might be tortured if returned to their country of origin;
 - (d) The number of deportations or forcible returns (please indicate how many of these related to asylum-seekers whose asylum applications had been rejected);
 - (e) The countries to which these people were expelled.
12. Please provide information on any cases submitted to the European Court of Human Rights concerning the expulsion, refoulement or extradition of aliens from Luxembourg.

Article 4

13. Please indicate the number and nature of cases in which the provisions of criminal law governing such offences as attempted acts of torture have been applied since 2002. Please also indicate the decisions taken in these cases, the sentences imposed or the grounds for any acquittals.

Article 5

14. Please indicate whether, under the Code of Criminal Investigation, the Luxembourg courts are competent to take legal action against a Luxembourg citizen for acts of torture committed abroad, including in cases where the act of torture is not punishable under the law of the country in which the act was committed.

Article 10

15. Please explain in detail what training is provided to law-enforcement personnel, forensic doctors and medical personnel responsible for examining persons who have been arrested or detained, asylum-seekers or refugees, with a view to detecting the physical and psychological signs of torture. Please indicate how long such training lasts, how often it is provided, and how it is evaluated.

Article 11

16. Please provide information on the law and practice with regard to:

(a) The length of police custody from the time the person is arrested until he or she is brought before a judge;

(b) The steps taken to register the person between the time of arrest and the time when he or she is brought before a judge;

(c) The circumstances in which incommunicado detention can be authorized, the authority with competence to authorize it and the maximum duration of such detention.

(d) The obligation of the Office of the Public Prosecutor to order a forensic examination, on its own motion or at the request of the detainee, if that person should allege ill-treatment between the time of arrest and the time when he or she is brought before a judge.

17. The report of the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment following its visit to Luxembourg from 2 to 7 February 2003 stated that the rights of all persons arrested to contact members of their family and to inform them of their situation and to have access to a lawyer from the time of arrest were not always guaranteed in practice, and were usually granted only after the first official questioning by the police.¹ Please provide information on the measures taken to guarantee this right to every detainee. Please also state whether police officers are present when detainees consult their lawyer or doctor or speak to a family member.

18. The above-mentioned report highlighted a number of cases of police brutality during the questioning of persons suspected of having committed an offence. Please indicate the measures taken by Luxembourg to remedy this situation.²

19. Please provide information on any emergency or anti-terrorist laws that might restrict a detainee's rights, in particular the rights mentioned in the above paragraphs: the right to a prompt hearing by a judge, the right to contact family members and to inform them of the situation, and the right to have access to a lawyer and a doctor from the time of arrest.

¹ CPT/Inf (2004) 12, paras. 23 and 24.

² Ibid., paras. 12-17.

20. Please provide detailed information on the implementation of the Act of 16 June 2004 relating to the reorganization of State socio-educational centres, which provides the legal basis for the construction of the Dreibern Security Unit for minors with a view to avoiding their imprisonment. Please also provide detailed information on the current situation of young offenders, and particularly the non-custodial treatment of such offenders (CAT/C/81/Add.5, paras. 8, 119, 156, 163, 173, 186, 190).

21. Please describe in as much detail as possible the conditions of detention in solitary confinement blocks in prisons, including those intended for minors. What is the maximum length of time for which a person can be held in solitary confinement, in what circumstances is this measure applied and who decides whether it should be applied?

22. Please provide information on the preliminary bill intended to amend the amended Act of 26 July 1986 on certain modes of enforcement of custodial sentences. Please indicate whether the State party envisages abolishing the use of solitary confinement, in accordance with the latest conclusions and recommendations of the Committee against Torture (CAT/C/CR/28/2, para. 6 (b)) and the recommendations of the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment following its visit to Luxembourg from 2 to 7 February 2003.³

23. Please provide information on the measures taken by Luxembourg to implement the recommendation made by the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment to eradicate certain discriminatory practices allegedly employed by the police against detainees, including insults with racist and/or xenophobic connotations.⁴

Articles 12 and 13

24. Please explain to what extent the public prosecutor's discretion to decide whether to investigate a complaint and to prosecute, as provided for in article 23 of the Code of Criminal Procedure, is compatible with the provisions of articles 6, 7 and 12 of the Convention.

25. Please indicate the number of cases where law-enforcement personnel have received legal or administrative punishment for the ill-treatment of detainees.

26. Please indicate whether detainees are able, if their complaints concerning torture or ill-treatment are dismissed, to refer their cases to the competent judicial authorities through private prosecutions.

27. Please indicate what independent body/bodies is/are responsible for visiting the prisons in Luxembourg. Please indicate how often such visits have been carried out since 2002, and the recommendations of such bodies following their visits.

³ Ibid., paras. 81-85.

⁴ Ibid., paras. 35 and 113.

Article 14

28. Please provide more detailed information on the bill intended to strengthen the rights of victims of criminal offences, introduced in the Chamber of Deputies on 22 May 2003, especially on the type of compensation to which victims of torture would be entitled (CAT/C/81/Add.5, para. 78).

29. Please clarify whether there have been any cases in which victims of torture or ill-treatment have received compensation.

Article 15

30. Please clarify whether the Code of Criminal Procedure explicitly stipulates that any statement proven to have been made as a result of torture shall not be invoked as evidence in any proceedings.

Article 16

31. Please provide information on the measures taken to prevent the excessive use of force by the police, particularly the use of handcuffs - even during a medical examination.

32. Please provide information on efforts made by Luxembourg to combat trafficking in persons.

Other

33. Does Luxembourg envisage ratifying the Optional Protocol to the Convention against Torture? If so, has it established a national mechanism which makes it possible to carry out periodic visits to places of detention with a view to preventing torture or other cruel, inhuman or degrading treatment?

34. Please indicate whether Luxembourg has legislation aimed at preventing and prohibiting the production, export and use of equipment specifically designed to inflict torture or other cruel, inhuman or degrading treatment. If so, please give information about its content and implementation. If not, please indicate whether the adoption of such legislation is being considered.
