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Mr. Ambassador,

In my capacity as Rapporteur for follow-up on Conclusions and Recommendations of the United Nations Committee against Torture, allow me to refer to the examination of the fifth report of Luxembourg (CAT/C/81/Add.5) by this Committee at its 38th session, from 30 April to 18 May 2007. At the end of that session, the Committee's Conclusions and Recommendations (CAT/C/LUX/CO/5) were transmitted to your Mission in Geneva. In paragraph 77 of those Conclusions and Recommendations, the Committee asked, pursuant to its rules of procedures, that Luxembourg provide, within one year (by May 2008) further information regarding areas of particular concern identified by the Committee in paragraphs 8, 9, 10 and 11 (see extracts annexed).

The Committee has adopted a follow-up procedure to pursue issues that are serious, that can be accomplished by the State party in a one year period, and that are protective.

The information sought by the Committee has not been provided yet, although more than one year has elapsed from the transmittal of the Committee's Conclusions and Recommendations. Accordingly, I would be grateful for clarification as to the current status of your Government's responses on the matters, and as to when the information requested will be forthcoming. Upon receipt of this information, the Committee will be able to assess whether further action is needed.

The Committee looks forward to pursuing the constructive dialogue it started with the authorities of Luxembourg on the implementation of the Convention. In this context, the Committee looks forward to receiving your response to this enquiry.

Accept, Mr. Ambassador, the assurances of my highest consideration.

A handwritten signature in cursive script, reading "Felice D. Gaer".

Felice D. Gaer
Rapporteur for Follow-up on Conclusions and Recommendations
Committee against Torture

H. E. Mr. Jean FEYDER
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**CONSIDERATION OF REPORTS SUBMITTED BY STATES PARTIES
UNDER ARTICLE 19 OF THE CONVENTION**

Conclusions and recommendations of the Committee against Torture
(Extracts for follow-up)

LUXEMBOURG

(...)

C. Subjects of concerns and recommendations

(...)

Provisions concerning the detention and treatment of arrested persons

8. While noting that the Charter of Ethical Values of the Grand Ducal Police stipulates in appendix 4 that “(a police officer) shall have absolute respect for persons, without discrimination of any kind”, the Committee is concerned about reports that foreign detainees are subjected to arbitrary behaviour and racist or xenophobic insults by law enforcement and prison personnel (arts. 11 and 16).

The State party should take the necessary steps to:

- (a) Provide law enforcement and prison personnel with more training in respect for the physical and psychological integrity of detainees, regardless of their origin, religion or sex;**
- (b) Make such behaviour a criminal offence;**
- (c) Order systematic investigations and, in all confirmed cases, bring the accused before the competent courts.**

9. While taking note of the explanations provided by the delegation of Luxembourg regarding solitary confinement, the Committee regrets the persistence of this disciplinary practice and Luxembourg’s intention to maintain it despite the earlier recommendations of the Committee against Torture (CAT/C/CR/28/2, paras. 5 and 6) and those of the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (arts. 11 and 16).

The Committee urgently reiterates its recommendation that solitary confinement be strictly and specifically regulated by law and that judicial supervision be strengthened. The State party should take the necessary steps to put an end to this disciplinary practice and change the relevant regulations accordingly.

Treatment of minors in conflict with the law and minors at risk

10. The Committee takes note of the information provided by the State party in its written replies, according to which negotiations have been held between the Ministry of the Family, the Ministry of Public Works and the municipality of Wormeldange with a view to reaching an agreement on completion of the project to build the Dreibern closed security unit for minors. It also notes that, at the time of consideration of this report, the municipal council had yet to issue a construction permit. However, the Committee continues to be concerned about the placement of minors in the Luxembourg Prison, which cannot be regarded as a suitable environment for them, especially as it cannot be guaranteed that there will be no contact whatsoever between minors and adult detainees. The Committee is also concerned that minors in conflict with the law and those with social or behavioural problems are placed in the same facilities and that minors aged between 16 and 18 may be brought before ordinary courts and tried as adults for particularly serious offences (arts. 11 and 16).

The Committee urgently reiterates its previous recommendation that minors should not be placed in adult prisons for disciplinary purposes (CAT/C/CR/28/2, paras. 5 and 6). The State party should also take the necessary steps to build the Dreibern security unit as soon as possible and, in the interim, to ensure that minors are kept strictly separate from adult detainees.

The State party should also keep children in conflict with the law separate from minors with social or behavioural problems, do everything possible to ensure that minors are never tried as adults, and set up an independent monitoring body to inspect juvenile facilities regularly (CRC/C/15/Add.250, para. 61 (c), (d) and (e)).

Impartial investigation

11. The Committee is concerned about the system which gives the public prosecutor discretion to decide not to prosecute perpetrators of acts of torture and ill-treatment involving law enforcement officers or even to order an investigation, in blatant violation of the provisions of article 12 of the Convention (art. 12).

In order to respect the letter and spirit of the provisions of article 12 of the Convention, the State party should consider departing from the system which gives the public prosecutor discretion to decide whether to prosecute so that there can be no doubt as to the obligation for the competent authorities to launch impartial investigations immediately and systematically in all cases in which there are reasonable grounds for believing that an act of torture has been committed anywhere in the territory under its jurisdiction.

(...)

17. The Committee requests the State party to provide, within one year, information on its response to the Committee's recommendations contained in paragraphs 8, 9, 10 and 11 above.

(...)