



HAUT-COMMISSARIAT AUX DROITS DE L'HOMME • OFFICE OF THE HIGH COMMISSIONER FOR HUMAN RIGHTS
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REFERENCE: Follow-up/CAT

29 August 2016

Your Excellency,

In my capacity as Rapporteur for Follow-up on Concluding Observations of the United Nations Committee against Torture, I refer to the examination of the combined sixth and seventh periodic reports of Luxembourg (CAT/C/LUX/6-7) by this Committee, at its 54th session, held from 20 April to 15 May 2015. At the end of that session, the Committee's concluding observations (CAT/C/LUX/CO/6-7) were transmitted to your Permanent Mission. In paragraph 18 of those concluding observations, the Committee requested, pursuant to its rules of procedure, that the State party provide, within one year, by 15 May 2016, further information regarding areas of particular concern identified by the Committee in paragraphs 10, 12, 13 and 15 (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 (see, doc. CAT/C/55/3).

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 concluding observations. 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. A Word electronic version of the reply should be sent to the Secretariat of the Committee against Torture (cat@ohchr.org). 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 has started with the authorities of Luxembourg on the implementation of the Convention. In this context, the Committee seeks to receive your response to this enquiry.

Accept, Your Excellency, the assurances of my highest consideration.

Abdelwahab Hani
Rapporteur for Follow-up on Concluding Observations
Committee against Torture

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**CONSIDERATION OF REPORTS SUBMITTED BY STATES PARTIES
UNDER ARTICLE 19 OF THE CONVENTION**

Concluding observations of the Committee against Torture
(Extracts for follow-up of CAT/C/LUX/CO/6-7)

LUXEMBOURG

(...)

C. Principal subjects of concern and recommendations

(...)

Conditions of detention

10. While the Committee commends the State party for its efforts in and success at avoiding prison overcrowding and for its adoption of the law of 24 July 2014 authorizing the construction of a new prison centre, it is concerned that certain detention conditions, in particular the size and sanitary conditions of some detention cells in police stations, fail to meet international standards, as revealed in the Ombudsman's report of February 2011 on this subject (arts. 11 and 16).

The State party should ensure that all detention conditions are in complete conformity with international standards and take into account that the conditions of prison cells can place additional stress upon persons being detained. In this regard, the State party should:

(a) **Increase the size of the cells used to detain persons for short periods of time prior to interrogation by the police, which, as reported by the State party, currently measure only two square meters;**

(b) **Place mattresses in "24-hour holding cells";**

(c) **Equip prison cells with toilets or provide all detained persons with access to sanitation facilities at all times**

(...)

Racist and xenophobic acts against foreign detainees

12. The Committee notes with concern reports of cases of racist and xenophobic acts by some law enforcement and prison personnel against foreign detainees (arts. 12, 13, 14 and 16).

The State party should take all measures necessary to prohibit and punish discrimination and incitement to violence against vulnerable groups and ensure that offences motivated by hate are always investigated and prosecuted and that the perpetrators are convicted and punished.

(...)

Juvenile justice

13. The Committee is concerned about the delay in the opening and operation of the Dreibern closed security unit for minors, which is attributable to delays in the adoption of relevant legislative texts. It is also concerned that minors aged 16 and 18 may, at the discretion of the judge, be brought before ordinary courts and tried as adults for particularly serious offences (arts. 11 and 16).

The State party should take the legislative and administrative measures necessary to expedite the opening and operation of the Dreibern closed security unit for minors and ensure, in the interim, that juvenile detainees and prisoners under 18 are always held separately from adults, in line with the provisions of the United Nations Standard Minimum Rules for the Administration of Juvenile Justice (the Beijing Rules) (rules 13.4 and 26.3) and the United Nations Rules for the Protection of Juveniles Deprived of their Liberty (rules 17, 28 and 29). It should employ alternatives to incarceration, taking into account the provisions of the United Nations Standard Minimum Rules for Non-custodial Measures (the Tokyo Rules) and the United Nations Rules for the Treatment of Women Prisoners and Non-Custodial Measures for Women Offenders (the Bangkok Rules), and ensure that minors are always tried in juvenile courts.

(...)

Powers of the Public Prosecutor

15. As expressed in paragraph 11 of the Committee's previous concluding observations (CAT/C/LUX/CO/5), the Committee is concerned about the Public Prosecutor's discretion to decide whether to prosecute perpetrators of acts of torture and ill-treatment involving law enforcement officers or even order an investigation (arts. 12 and 13).

The Committee reiterates its previous recommendation. The State party should ensure that whenever there are allegations of torture or ill-treatment they are investigated promptly and effectively and that perpetrators are sanctioned accordingly.

(...)

Follow-up procedure

18. The Committee requests the State party to provide, by 15 May 2016, follow-up information in response to the Committee's recommendations contained in

paragraph 10, on conditions of detention; in paragraph 12, on racist and xenophobic acts against foreign detainees; in paragraph 13, on juvenile justice; and in paragraph 15, on the powers of the Public Prosecutor.

(...)
