

Criminal Detention in the EU Conditions and Monitoring

Update of FRA's Criminal Detention Database
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Part I: National standards

1. Cells

- a) **Cell space:** What is the national standard for cell space available to detainees in m²? Are the calculation requirements spelled out by the CJEU in its *Dorobantu* ruling¹ observed?

The Grand-Ducal Regulation of 24 March 1989² is the main legal text on administration and internal organisation of penitentiary establishments. It does not include specific details on cell space.

The CPT report on Luxembourg of 2003³ notes that the cell's surface of 12 m² which comprehends the bed (bunk bed), a table, a W.C., a closet and two chairs suitable for maximum two detainees. The access to natural light, artificial lighting, ventilation, and heating was also considered adequate. The cells of the Luxembourg's penitentiary (*Centre pénitentiaire de Luxembourg - CPL*) are compatible with the CPT standards of 6m² for a single occupancy cell.

- b) **Cell equipment, furniture and facilities:** Are there any national standards for cell equipment (heating, ventilation, cooling, etc.), furniture (bed, mattress, shelf, wardrobe, seating, table, etc.) and/or facilities (lighting, incl. windows, washbasin, toilet, shower etc.), including any measurements? If so, what do they require?

According to the Grand-Ducal Regulation of 24 March 1989 every inmate has an individual bed and bedding items, that should be kept in appropriate conditions. They are frequently exchanged to guarantee hygiene and cleanness⁴. Clothing and additional bedding items may be given to detainees following advice of the doctor.⁵

The furniture includes a bed with a mattress, shelf, wardrobe, two chairs, a table, a toilet, a washbasin, and a mirror. In the CPL all prisoners have a closet for storing personal belongings⁶.

¹ For the CEU's calculation requirements please see: CJEU, [C-128/18, Dorobantu](#) [GC], Judgment of 15 October 2019, oper. part.

² Luxembourg, [the Grand-Ducal Regulation of 24 March 1989 concerning the administration and internal regime of penitentiary establishments](#) (*Règlement modifié grand-ducal du 24 mars 1989 concernant l'administration et le régime interne des établissements pénitentiaires*).

³ Council of Europe (2003). [Report to the Government of the Grand Duchy of Luxembourg on the visit to Luxembourg by the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment \(CPT\)](#) (*Rapport au Gouvernement du Grand-Duché de Luxembourg relatif à la visite effectuée au Luxembourg par le Comité européen pour la prévention de la torture et des peines ou traitements inhumains ou dégradants* (CPT)).

⁴ Luxembourg, Article 259 of [the Grand-Ducal Regulation of 24 March 1989 concerning the administration and internal regime of penitentiary establishments](#) (*Règlement modifié grand-ducal du 24 mars 1989 concernant l'administration et le régime interne des établissements pénitentiaires*).

⁵ Luxembourg, Article 260 of [the Grand-Ducal Regulation of 24 March 1989 concerning the administration and internal regime of penitentiary establishments](#) (*Règlement modifié grand-ducal du 24 mars 1989 concernant l'administration et le régime interne des établissements pénitentiaires*).

⁶ Luxembourg, [Parliamentary question N°3687 concerning Hygiene at the Schrassig penitentiary center](#) (*Réponse du Ministre de la Justice à question N°3687 de Monsieur Fernand Kartheiser concernant Hygiène au centre pénitentiaire de Schrassig*).

c) **Video-surveillance of cells:** Are there any national standards for video-surveillance of cells? If so, what do they require?

There is no video surveillance inside the cells⁷ except for two observation cells where there is a permanent video surveillance.⁸ These two cells are used for the confinement of inmates in a state of clastic agitation.⁹ Video surveillance is located in the hallways.

d) **Hygienic conditions in cells:** Are there any national standards with regard to cleaning and/or cleanliness of cells? If so, what do they require?

General detention facilities: Clothing should be in adequate state, if the detainee does not have any at disposal, they can be provided to him/her by the facility.¹⁰ Clothing is adequate for indoor temperature to ensure health of the detainee. Underwear should be changed as frequently as necessary to maintain hygiene.¹¹

Each detainee has an individual bed and appropriate bedding, properly maintained and renewed to ensure cleanliness¹². Clothing and additional bed linens may be granted to detainees following the recommendations of the doctor¹³. Neither clothes nor bed linens can be passed from one detainee to the other.¹⁴

The organisation of service and cleaning is determined by the director of the detention facility. Domestic service is provided by the staff of the establishment and by the inmates designated for the various duties of this service by the director of the institution.¹⁵

In the Detention centre, the detainee is responsible for the cleanness of own room, including its furniture. There are regular checks regarding sanitary cleanness. The cost of eventual repairs is charged to the detainee.¹⁶ The detainee has to maintain his/her

⁷ Luxembourg, note: No law mentions it explicitly, videosurveillance is confirmed in [Parliamentary Question N°2597 concerning the situation of women prisoners in Luxembourg](#) (Réponse de la Ministre de la Justice à question N°2597 de Monsieur Marc Baum concernant Situation des femmes détenues au Luxembourg).

⁸ Luxembourg, Article 30(c) of [the Act of 20 July 2018 reforming the prison administration](#) (Loi du 20 juillet 2018 portant réforme de l'administration pénitentiaire).

⁹ Council of Europe (2003). [Report to the Government of the Grand Duchy of Luxembourg on the visit to Luxembourg by the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment \(CPT\)](#) (Rapport au Gouvernement du Grand-Duché de Luxembourg relatif à la visite effectuée au Luxembourg par le Comité européen pour la prévention de la torture et des peines ou traitements inhumains ou dégradants (CPT)). p. 40.

¹⁰ Luxembourg, Article 3 of [the Grand-Ducal Regulation of August 17, 2011 setting the conditions and practical modalities of the detention regime of the detention center](#) (Règlement grand-ducal du 17 août 2011 fixant les conditions et les modalités pratiques du régime de rétention du Centre de rétention).

¹¹ Luxembourg, Article 258 of [the Grand-Ducal Regulation of 24 March 1989 concerning the administration and internal regime of penitentiary establishments](#) (Règlement modifié grand-ducal du 24 mars 1989 concernant l'administration et le régime interne des établissements pénitentiaires).

¹² Luxembourg, Article 259 of [the Grand-Ducal Regulation of 24 March 1989 concerning the administration and internal regime of penitentiary establishments](#) (Règlement modifié grand-ducal du 24 mars 1989 concernant l'administration et le régime interne des établissements pénitentiaires).

¹³ Luxembourg, Article 260 of [the Grand-Ducal Regulation of 24 March 1989 concerning the administration and internal regime of penitentiary establishments](#) (Règlement modifié grand-ducal du 24 mars 1989 concernant l'administration et le régime interne des établissements pénitentiaires).

¹⁴ Luxembourg, Article 261 of [the Grand-Ducal Regulation of 24 March 1989 concerning the administration and internal regime of penitentiary establishments](#) (Règlement modifié grand-ducal du 24 mars 1989 concernant l'administration et le régime interne des établissements pénitentiaires).

¹⁵ Luxembourg, Article 39 of [the Grand-Ducal Regulation of 24 March 1989 concerning the administration and internal regime of penitentiary establishments](#) (Règlement modifié grand-ducal du 24 mars 1989 concernant l'administration et le régime interne des établissements pénitentiaires).

¹⁶ Luxembourg, Article 8 of [the Grand-Ducal Regulation of August 17, 2011 setting the conditions and practical modalities of the detention regime of the detention center](#) (Règlement grand-ducal du 17 août 2011 fixant les conditions et les modalités pratiques du régime de rétention du Centre de rétention).

own hygiene.¹⁷ There are washing machines at the disposal free of charge; the detainee should clean their own bedding and personal clothes.¹⁸

- e) Please indicate whether there are different standards applicable to different detention regimes (pre-trial and post-trial detention and for example, if applicable in your jurisdiction: open, semi-open, closed etc.).

The State socio-educational centre (*Centre socio-éducatif de l'Etat, CSEE*)¹⁹ :The size of the cells ("rooms" or "*groupes de vie*" as they are called by the CSEE) is 12,02 m², and 3 children share one cell (4 cells for 12 children). There is also an isolation cell (which the CSEE refers to as the "protection room" (*chambre protectrice*)), which has the size of 12,10 m².²⁰

In the Detention centre (*Centre de rétention*) all detainees are eligible to an individual room apart from the families who can benefit from bigger rooms. The cell space is 7,6 m² or 9,2 m². The bigger cells were initially intended for two persons, but in practice every detainee has his/her own room and does not have to share with another person. An alarm system is established within the rooms in case of emergency.²¹ Despite the limited space of the individual rooms, they are all equipped with a table, a chair, a toilet and an integrated sink, television, and radio.²² Exaggerated noise is prohibited. Any noise is prohibited between 10 pm and 6 am.²³

- f) Please indicate any remedies available to detainees in case of a breach or violation of the standards addressed under 1. a) – e), including their respective legal basis.

All decisions taken regarding detainees by the directors of penitentiary centers in application of this law may be the subject of an administrative appeal before the director of the prison administration. This appeal must be lodged, under penalty of inadmissibility, in writing within eight working days (from the moment of the notification of the decision by the director of the detention facility).²⁴

All decisions taken regarding detainees by the director of the penitentiary administration in application of this law may be the subject of a judicial appeal before the penalty enforcement chamber. This appeal must be lodged in writing within eight working days (from the moment of the notification of the decision by the director of the detention

¹⁷ Luxembourg, Article 14 of [the Grand-Ducal Regulation of August 17, 2011 setting the conditions and practical modalities of the detention regime of the detention center](#) (*Règlement grand-ducal du 17 août 2011 fixant les conditions et les modalités pratiques du régime de rétention du Centre de rétention*).

¹⁸ Luxembourg, Article 15 of [the Grand-Ducal Regulation of August 17, 2011 setting the conditions and practical modalities of the detention regime of the detention center](#) (*Règlement grand-ducal du 17 août 2011 fixant les conditions et les modalités pratiques du régime de rétention du Centre de rétention*).

¹⁹ The State Socio-Educational Centre (*Centre Socio-Educatif de l'Etat, CSEE*) dedicated to minors, with two facilities located in Schrassig and Dreiborn

²⁰ Luxembourg, Email correspondence with the Director of the CSEE, 18 June 2018.

²¹ Luxembourg, Article 9 of [the Grand-Ducal Regulation of August 17, 2011 setting the conditions and practical modalities of the detention regime of the detention center](#) (*Règlement grand-ducal du 17 août 2011 fixant les conditions et les modalités pratiques du régime de rétention du Centre de rétention*).

²² Luxembourg, Ombudsperson, External control service for places of deprivation of liberty (*Service du contrôle externe des lieux privés de liberté*) (2014). [Report on the Detention Centre](#) (*Le centre de Rétention, Service du contrôle externe des lieux privés de liberté*).

²³ Luxembourg, Article 9 of [the Grand-Ducal Regulation of August 17, 2011 setting the conditions and practical modalities of the detention regime of the detention center](#) (*Règlement grand-ducal du 17 août 2011 fixant les conditions et les modalités pratiques du régime de rétention du Centre de rétention*).

²⁴ Luxembourg, Article 34 of the [Act of 20 July 2018 reforming the prison administration](#) (*Loi du 20 juillet 2018 portant réforme de l'administration pénitentiaire*).

facility). The judicial appeal lodged directly against a decision of a director of the penitentiary center is inadmissible.²⁵

g) Please, provide a link to the National Preventive Mechanism's reports **from the reference period** (1 May 2018 to 15 April 2021; if no report is available for this period, please provide links to the most recent one and the relevant CPT reports from the reference period) and whether there are any recommendations regarding these aspects (please provide the exact quotation in both, the national as well as in English language). These reports can be found on the webpage of the National Preventive Mechanism. For ease of reference, a list of links can be found via the [OPCAT Database](#).

Council of Europe (2015). [Report to the Government of the Grand Duchy of Luxembourg on the visit to Luxembourg by the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment \(CPT\)](#) (*Rapport au Gouvernement du Grand-Duché de Luxembourg relatif à la visite effectuée au Luxembourg par le Comité européen pour la prévention de la torture et des peines ou traitements inhumains ou dégradants (CPT)*).

Ombudsperson, External control service for places of deprivation of liberty (*Contrôle externe des lieux privés de liberté*) (2016). [The disciplinary system in prisons. A Follow up report](#) (*Le système disciplinaire en milieu carcéral. Rapport de suivi*)

Luxembourg, Ombudsperson, External control service for places of deprivation of liberty (*Service du contrôle externe des lieux privés de liberté*) (2010) [Report regarding the entry and health of the detainee within prison](#) (*Rapport relatif à l'entrée du détenu en milieu carcéral et à la santé en milieu carcéral*).

Ombudsperson, External control service for places of deprivation of liberty (*Contrôle externe des lieux privés de liberté*) (2018). [The CSEE security unit](#) (*L'unité de sécurité du CSEE*).

« Regarding special rooms for isolation in the Security unit of the state socio educational centre for minors (*l'unité de sécurité du Centre Socio-Educatif de l'Etat (CSEE) – UNISEC*) the Ombudsperson reports: « The soft-cell, used in the event of a crisis to allow the minor to calm down in an environment poor in stimulation, is coated with a soft material so as to really prevent the minor from injuring himself. It has two doors, which is supposed to facilitate access in a situation of unrest and opposition from the minor. The Mediator regrets, however, that this room is only equipped with an intercom and not a valve that would allow to speak with the minor while having visual contact, but without having to enter the room. The Mediator also regrets that the chamber is not equipped with a camera. The monitoring team is aware that an application for authorization to video surveillance in this room had to be withdrawn for administrative reasons. The Mediator recalls that he always favors physical visual surveillance, but stresses that video surveillance could in these particular situations usefully supplement the regular checks carried out by the staff, with the aim of preventing self-harm and controlling the victim. state of health of the minor. It is obvious that the space reserved for the toilet should not be visible on the monitoring screen, either by pixelation or by opacification of the area concerned. The Mediator recommends that the CSEE officials take the official steps to request permission to install a camera in the isolation room. It is of the opinion that video surveillance would be useful in this context for the safety of the minor. Video surveillance should complement the regular physical checks carried out by staff members. »

²⁵ Luxembourg, Article 35(1) of the [Act of 20 July 2018 reforming the prison administration](#) (*Loi du 20 juillet 2018 portant réforme de l'administration pénitentiaire*).

"La soft-cell, utilisée en cas de crise pour permettre au mineur de se calmer dans un environnement pauvre en stimulation est revêtue d'une matière molle de manière à réellement empêcher le mineur de se blesser. Elle est équipée de deux portes, ce qui est censée faciliter l'accès en situation d'agitation et d'opposition de la part du mineur. Le Médiateur regrette cependant que cette chambre soit uniquement équipée d'un parlophone et pas d'un clapet qui permettrait de parler avec le mineur en ayant un contact visuel, mais sans pour autant devoir entrer dans la chambre. Le Médiateur regrette par ailleurs que la chambre ne soit pas équipée d'une caméra. L'équipe de contrôle est au courant qu'une demande d'autorisation de vidéosurveillance dans cette chambre a dû être retirée pour des raisons administratives. Le Médiateur rappelle qu'il privilégie toujours la surveillance visuelle physique, mais souligne que la vidéosurveillance pourrait dans ces situations particulières utilement compléter les contrôles réguliers réalisés par le personnel, ceci dans un but de prévention d'auto-agression et du contrôle de l'état de santé du mineur. Il est évident que l'espace réservé à la toilette ne devrait pas être visible à l'écran de surveillance, ceci soit par pixellisation, soit par opacification de la zone concernée. Le Médiateur recommande aux responsables du CSEE de faire les démarches officielles pour demander l'autorisation d'installer une caméra dans la chambre d'isolement. Il est d'avis que la vidéosurveillance serait dans ce contexte utile pour la sécurité du mineur. La vidéosurveillance devrait venir compléter les contrôles physiques réguliers réalisés par les membres du personnel."²⁶

2. Sanitary conditions

- a) What is the national standard with regard to access to toilets? Are these located in cells? If not, do detainees have access to these facilities without undue delay, even during the night? Do these facilities have to offer privacy to detainees who use them and, if so, in how far?

General principle states that: personal hygiene is required of all inmates.²⁷ No further specifications regarding access to facilities without undue delay are provided.

The CPL report (2010) notes that access to showers is permanent in the daytime²⁸; within the cells the toilet is separated from the rest of the cell only from one side. For double or triple cells, the non-separation of the sanitary facilities from the rest of the cell causes an issue of hygiene, intimacy, and discomfort for the detainees. As for the security cells, they are still equipped with the old model of toilets where you cannot sit on (squatting toilets).²⁹

- b) What is the national standard with regard to access to regularly cleaned shower/bathing facilities? How often is this access provided? Do these facilities have to offer privacy to detainees who use them and, if so, in how far?

²⁶ <https://www.ombudsman.lu/uploads/RV/RV17%20-%20Rapport.pdf> p.14

²⁷ Luxembourg, Article 270 of [the Grand-Ducal Regulation of 24 March 1989 concerning the administration and internal regime of penitentiary establishments](#) (Règlement modifié grand-ducal du 24 mars 1989 concernant l'administration et le régime interne des établissements pénitentiaires).

²⁸ Luxembourg, Ombudsperson, External control service for places of deprivation of liberty (Service du contrôle externe des lieux privés de liberté) (2010) [Report regarding the entry and health of the detainee within prison](#) (Rapport relatif à l'entrée du détenu en milieu carcéral et à la santé en milieu carcéral).

²⁹ Luxembourg, Ombudsperson, External control service for places of deprivation of liberty (Service du contrôle externe des lieux privés de liberté) (2010) [Report regarding the entry and health of the detainee within prison](#) (Rapport relatif à l'entrée du détenu en milieu carcéral et à la santé en milieu carcéral).

All inmates are provided with necessary toilet items free of charge to support their health and hygiene; facilities are provided for that on a daily basis³⁰; shower is required at least once a week³¹.

c) What are the national standards with regard to cleaning and cleanliness of sanitary facilities?

With regard to the sanitary facilities, the internal organisation of the hygiene service is determined by the Director of the detention facility.³²

d) Please indicate whether there are different standards applicable to different detention regimes (pre-trial and post-trial detention and for example, if applicable in your jurisdiction: open, semi-open, closed etc.).

In CSEE, each cell ("groupe de vie", which is shared by 3 children) has a bathroom³³.

In the Detention centre, there is a toilet and sink in each cell, and during daytime there is free access to the bathrooms and showers. At night, access can be requested, by ringing the emergency alarm bell (for instance, in case of illness).³⁴

e) Please indicate any remedies available to detainees in case of a breach or violation of the standards addressed under 2. a) – d), including their respective legal basis.

General: All decisions taken regarding detainees by the directors of penitentiary centres in application of this law may be the subject of an administrative appeal before the director of the prison administration. This appeal must be lodged, under penalty of inadmissibility, in writing within eight working days (from the moment of the notification of the decision by the director of the detention facility).³⁵

All decisions taken regarding detainees by the director of the penitentiary administration in application of this law may be the subject of a judicial appeal before the penalty enforcement chamber. This appeal must be lodged in writing within eight working days (from the moment of the notification of the decision by the director of the detention facility). The judicial appeal lodged directly against a decision of a director of the penitentiary centre is inadmissible.³⁶

f) Please, provide a link to the National Preventive Mechanism's reports **from the reference period** (1 May 2018 to 15 April 2021; if no report is available for this period, please provide links to the most recent one and the relevant CPT

³⁰ Luxembourg, Article 270 of [the Grand-Ducal Regulation of 24 March 1989 concerning the administration and internal regime of penitentiary establishments](#) (*Règlement modifié grand-ducal du 24 mars 1989 concernant l'administration et le régime interne des établissements pénitentiaires*).

³¹ Luxembourg, Article 272 of [the Grand-Ducal Regulation of 24 March 1989 concerning the administration and internal regime of penitentiary establishments](#) (*Règlement modifié grand-ducal du 24 mars 1989 concernant l'administration et le régime interne des établissements pénitentiaires*).

³² Luxembourg, Article 39 of [the Grand-Ducal Regulation of 24 March 1989 concerning the administration and internal regime of penitentiary establishments](#) (*Règlement modifié grand-ducal du 24 mars 1989 concernant l'administration et le régime interne des établissements pénitentiaires*).

³³ Luxembourg, Email correspondence with the Director of the CSEE, 18 June 2018

³⁴ Luxembourg, Interview with the director of the detention centre in 2018.

³⁵ Luxembourg, Article 34 of the [Act of 20 July 2018 reforming the prison administration](#) (*Loi du 20 juillet 2018 portant réforme de l'administration pénitentiaire*).

³⁶ Luxembourg, Article 35(1) of the [Act of 20 July 2018 reforming the prison administration](#) (*Loi du 20 juillet 2018 portant réforme de l'administration pénitentiaire*).

reports from the reference period) and whether there are any recommendations regarding these aspects (please provide the exact quotation in both, the national as well as in English language). These reports can be found on the webpage of the National Preventive Mechanism. For ease of reference, a list of links can be found via the [OPCAT Database](#).

Luxembourg, Luxembourg, Ombudsperson, External control service for places of deprivation of liberty (*Service du contrôle externe des lieux privés de liberté*) (2010), [Report regarding the entry and health of the detainee within prison](#) (*Rapport relatif à l'entrée du détenu en milieu carcéral et à la santé en milieu carcéral*).

In the report, the Mediator has drawn attention to the hygiene of the bed clothing: typically, bed sheets are changed every day. However, due to various conditions (season of the year, the fact that sometimes the detainees spend most of the time inside, the fact that the room is with the bathroom), the Ombudsperson suggests that the detainees are allowed to request having bed sheets changed once a week.

« Toutefois, le problème soulevé en 2010 relatif au changement des draps de lit reste pertinent. Au CPL, les draps de lit sont en effet changés toutes les deux semaines. Si cette fréquence peut être acceptable dans les conditions normales, il ne faut pas perdre de vue que les conditions de vie dans une cellule sont différentes de celles d'une chambre à coucher ordinaire. Il faut être conscient que les détenus, qui se partagent parfois à deux ou même à trois, une cellule de taille assez réduite, vivent et mangent dans cette cellule pendant la majeure partie du jour. A ceci s'ajoute premièrement que les détenus fument dans leurs cellules et deuxièmement que les toilettes sont installées à l'intérieur de la cellule, sans qu'il n'existe de cloisonnement intégral. En été, la température monte en plus de manière considérable dans les cellules. La Médiateure est consciente des questions organisationnelles liées à cette procédure, mais invite néanmoins la Direction du CPL à réfléchir à l'instauration d'un système qui permet aux moins au détenus qui en font la demande de changer leurs draps de lit une fois par semaine (p.40). »

« However, since 2010 the issue of changing bed linen still remains relevant. At CPL, bed sheets are changed every two weeks. While this frequency can be acceptable under normal conditions, it should be borne in mind that living conditions in a cell are different from those in an ordinary bedroom. One has to be aware that the detainees, who sometimes two or even three share a rather small cell with two or even three other persons, live and eat in this cell during most of the day. This must be added to the fact that first, the detainees smoke in their cells and second that the toilets are installed inside the cell. In summer, the temperature also rises considerably in the cells. The Mediator is aware of the organizational issues related to this procedure, but nevertheless invites the CPL management to consider setting up a system that allows at least those inmates who so request to change their bed sheets once a week. »

Council of Europe (2015). [Report to the Government of the Grand Duchy of Luxembourg on the visit to Luxembourg by the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment \(CPT\)](#) (*Rapport au Gouvernement du Grand-Duché de Luxembourg relatif à la visite effectuée au Luxembourg par le Comité européen pour la prévention de la torture et des peines ou traitements inhumains ou dégradants* (CPT). In the report the Committee (CTP) called for providing mattresses to the detainees in detention centres.

« le CPT est préoccupé par le fait que, malgré sa recommandation spécifique répétée à plusieurs reprises, un matelas n'est toujours pas mis à la disposition des personnes obligées de passer de longues heures dans ces cellules. Dans leur réponse au précédent

rapport, les autorités luxembourgeoises évoquent des raisons d'hygiène pour ne pas fournir de matelas. Aux yeux du CPT, cet argument ne peut être recevable dans la mesure où il existe des matelas imperméables destinés à être utilisés dans des cellules de police, y compris lorsqu'elles servent de cellule de dégrisement. Le Comité appelle les autorités à prendre, sans délai, les mesures nécessaires afin que des matelas soient fournis aux personnes privées de liberté dans les cellules d'arrêt » (p.18).

«The CPT is preoccupied with the fact that despite its repeated recommendations, mattresses have not always been at the disposal to persons who spend long hours in these cells. In the response to the previous report, the authorities rather not provide mattresses for hygiene reasons. The CPT is of the opinion, that this argument can be acceptable as a measure in police cells, including those serving dementia cells. The Committee asks authorities to take, without delay, necessary measures to ensure that the detainees are provided with mattresses. » (p18).

3. Time out of cell

- a) What is the national standard set for time per day/week spent by detainees outside of their cells:
- Outdoors (within the boundary of the prison)?
 - Indoors in the common area?

In all penitentiary centres, generally, inmates are placed in the communal life³⁷. Except when persons are placed in solitary (confinement) cells.³⁸

Detention centre (Centre de rétention): The detainees can move freely within their unit during the daytime, and they can also participate in sports, cultural, intellectual and artistic activities as stated in article 12(3).³⁹ There are activity halls, a sports room, a library for the common use.⁴⁰

CTP report (2015)⁴¹ confirms that the detainees are allowed to circulate freely within their unit during the day and a grand majority can participate in activities or work.

Furthermore, the opening and closing hours of the closed Luxembourg detention facility in Schrassig (CPL - *Centre pénitentiaire de Luxembourg*) are set to 7h00-22h00 with mandatory supervision of detainees, and the opening and closing hours of the Givenich

³⁷ Luxembourg, Article 29 (1) of the [Act of 20 July 2018 reforming the prison administration](#) (Loi du 20 juillet 2018 portant réforme de l'administration pénitentiaire).

³⁸ Luxembourg, Article 29 (2) of the [Act of 20 July 2018 reforming the prison administration](#) (Loi du 20 juillet 2018 portant réforme de l'administration pénitentiaire).

³⁹ Luxembourg, Article 13 of the [Act of 28 May 2009 regarding the creation and organisation of the Detention Centre](#) (Loi du 28 mai 2009 portant création et organisation du Centre de rétention).

⁴⁰ Luxembourg, Article 11 of the [Grand-Ducal Regulation of August 17, 2011 setting the conditions and practical modalities of the detention regime of the detention center](#) (Règlement grand-ducal du 17 août 2011 fixant les conditions et les modalités pratiques du régime de rétention du Centre de rétention).

⁴¹ Council of Europe (2015). [Report to the Government of the Grand Duchy of Luxembourg on the visit to Luxembourg by the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment \(CPT\)](#) (Rapport au Gouvernement du Grand-Duché de Luxembourg relatif à la visite effectuée au Luxembourg par le Comité européen pour la prévention de la torture et des peines ou traitements inhumains ou dégradants (CPT)).

detention facility (CPG - centre pénitentiaire de Givenich) are fixed by the Director of the detention facility⁴².

During the Covid-19 pandemic, several restrictions, i.e., suspension of various activities, limitation of movements,⁴³ have been put in place to limit the spread of the disease. In particular, training courses, work in the workshops and sports activities at the CPL were stopped during the first lockdown. Only detainees who work in the kitchen, in the pantry or in the sections of the sections, in the interior or exterior, continue to work⁴⁴. In 2021, during partial lockdown, sports as well as community activities inside the facility were cancelled. The chapel was closed. It was possible, moreover, to continue sports activities outside.⁴⁵

b) Do sports or other recreational and/or educational facilities have to be available to detainees? If so, what types?

In the penitentiary establishments, to promote their integration, all the provisions are made to provide inmates with work, training, basic education, sport, access to culture, as well as other adapted activities. Work and other activities are offered under the voluntary integration plan and are remunerated based on the principle of equal pay⁴⁶. The sports instructors organise and direct physical exercise sessions and sports activities of the inmates following the relevant instructions of the director. They are responsible for the supervision of the prisoners entrusted to them during physical education sessions and sports activities. If necessary, and on the decision of the director of the penitentiary facility, they may be assisted in their supervision by one or more members of the guard service. They ensure that the inmates play various games, particularly the communal games, in a correct and disciplined manner.⁴⁷

The sports activities are common to the convicted and remand detainees. The CPL report (2010) notes that given the complexity of the coordination of the sports activities due to the large number of detainees, since 2010, the sports sessions have a duration of 1h30 two times per week⁴⁸.

Education, including learning languages, is offered to the inmates who do not have basic education, or do not speak the languages spoken in Luxembourg⁴⁹.

c) Is there a national standard for time spent in cells? If so, what does it require?

⁴² Luxembourg, Article 111 and 113 of the [Grand-Ducal Regulation of 24 March 1989 concerning the administration and internal regime of penitentiary establishments](#) (Règlement grand-ducal du 24 mars 1989 concernant l'administration et le régime interne des établissements pénitentiaires).

⁴³ Luxembourg, Luxembourgish Gouvernement, [Reinforcement of precautionary measures against the propagation of COVID-19 in penitentiary centers](#) (Renforcement des mesures de précaution contre la propagation du COVID-19 aux centres pénitentiaires), news press release 18.03.2020.

⁴⁴ Luxembourg, Luxembourgish Gouvernement, [Precautionary measures against the spread of the COVID-19 virus within penitentiary centers](#) (Mesures de précaution contre la propagation du virus COVID-19 au sein des centres pénitentiaires), news press release 13.03.2020.

⁴⁵ Luxembourg, RTL. ["Partial lockdown" in prison due to increase in new Covid cases](#) ("Partielle Lockdown" am Prisong wéinst Hausse vun neie Covid-Fäll), 15.04.2021

⁴⁶ Luxembourg, Article 28 (1) of the [Act of 20 July 2018 reforming the prison administration](#) (Loi du 20 juillet 2018 portant réforme de l'administration pénitentiaire).

⁴⁷ Luxembourg, Article 98 of the [Grand-Ducal Regulation of 24 March 1989 concerning the administration and internal regime of penitentiary establishments](#) (Règlement modifié grand-ducal du 24 mars 1989 concernant l'administration et le régime interne des établissements pénitentiaires).

⁴⁸ Luxembourg, Luxembourg, Ombudsperson, External control service for places of deprivation of liberty (Service du contrôle externe des lieux privés de liberté) (2010) [Report regarding the entry and health of the detainee within prison](#) (Rapport relatif à l'entrée du détenu en milieu carcéral et à la santé en milieu carcéral).contrôle externe des lieux privés de liberté, Le Médiateur du Grand-Duché de Luxembourg).

⁴⁹ Luxembourg, Article 28 (2) of the [Act of 20 July 2018 reforming the prison administration](#) (Loi du 20 juillet 2018 portant réforme de l'administration pénitentiaire).

Prisoners are allowed, while in their cells, to individually engage in activities of their choice if they do not endanger order and security⁵⁰.

d) Are there any national standards with regard to activities and/or programmes that should be available to detainees when they are outside their cells? If so, what do they require?

People may gather in small groups for certain activities or to play games (without “profit” objective)⁵¹, that includes social games, as well as cards, which could be bought at the kiosk inside the establishment⁵². For security reason, chess is not allowed⁵³. All prisoners are allowed to watch TV (they have to pay a caution for the TV set and a monthly fee), listen to radio programs approved by the director.⁵⁴ Each establishment has a library with books, newspapers, journals⁵⁵.

e) Please indicate whether there are different standards applicable to different detention regimes (pre-trial and post-trial detention and for example, if applicable in your jurisdiction: open, semi-open, closed etc.).

In the Penitentiary Center of Givenich (CPG) the director may authorise accompanied temporary leaves if it is in their interests of better social integration provided that the detainees take part in the psychologic educational cultural, sports, etc. activities that are located outside the detention centre. The duration of the temporary leave is determined by the director, and it cannot begin earlier than 6 am and cannot finish later than 10 pm⁵⁶.

CSEE: The time spent inside the cell must not exceed 10 hours. Hence, the detained children spend a minimum of 14 hours outside their cells. During daytime, the detainees (here referred to as “residents” (*pensionnaires*) by the CSEE) follow an educational programme with qualified teachers, which is aligned with and recognised by the Luxembourg school system. Outside of school hours, other activities are proposed, depending on the individual projects of each detainee. Thematic evenings, workshops and similar activities are organized with external experts, for instance on photography, graffiti, or other⁵⁷.

⁵⁰ Luxembourg, Article 319 of the [Act of 20 July 2018 reforming the prison administration](#) (*Loi du 20 juillet 2018 portant réforme de l'administration pénitentiaire*).

⁵¹ Luxembourg, Article 318 [the Grand-Ducal Regulation of 24 March 1989 concerning the administration and internal regime of penitentiary establishments](#) (*Règlement modifié grand-ducal du 24 mars 1989 concernant l'administration et le régime interne des établissements pénitentiaires*).

⁵² Luxembourg, [Parliamentary question N°3687 concerning Hygiene at the Schrassig penitentiary center](#) (*Réponse du Ministre de la Justice à question N°3687 de Monsieur Fernand Kartheiser concernant Hygiène au centre pénitentiaire de Schrassig*).

⁵³ Luxembourg, [Parliamentary question N°3687 concerning Hygiene at the Schrassig penitentiary center](#) (*Réponse du Ministre de la Justice à question N°3687 de Monsieur Fernand Kartheiser concernant Hygiène au centre pénitentiaire de Schrassig*).

⁵⁴ Luxembourg, Article 320 of [the Grand-Ducal Regulation of 24 March 1989 concerning the administration and internal regime of penitentiary establishments](#)

⁵⁵ Luxembourg, Article 321 and 324 of [the Grand-Ducal Regulation of 24 March 1989 concerning the administration and internal regime of penitentiary establishments](#) (*Règlement modifié grand-ducal du 24 mars 1989 concernant l'administration et le régime interne des établissements pénitentiaires*).

⁵⁶ Luxembourg, Article 21 (7) of [the Law of 20 July 2018 reforming the prison administration](#) (*Loi du 20 juillet 2018 portant réforme de l'administration pénitentiaire*).

⁵⁷ Luxembourg, Email correspondence with the Director of the CSEE, 18 June 2018.

The Act of 16 June 2004 regarding the reorganisation of the State Socio-Educational Centre mentions sports activities, however there are no specific details to this matter⁵⁸.
f) Please indicate any remedies available to detainees in case of a breach or violation of the standards addressed under 3. a) – e), including their respective legal basis.
General: All decisions taken regarding detainees by the directors of penitentiary centers in application of this law may be the subject of an administrative appeal before the director of the prison administration. This appeal must be lodged, under penalty of inadmissibility, in writing within eight working days (from the moment of the notification of the decision by the director of the detention facility).⁵⁹ All decisions taken regarding detainees by the director of the penitentiary administration in application of this law may be the subject of a judicial appeal before the penalty enforcement chamber. This appeal must be lodged in writing within eight working days (from the moment of the notification of the decision by the director of the detention facility). The judicial appeal lodged directly against a decision of a director of the penitentiary center is inadmissible.⁶⁰
g) Please, provide a link to the National Preventive Mechanism's reports from the reference period (1 May 2018 to 15 April 2021; if no report is available for this period, please provide links to the most recent one and the relevant CPT reports from the reference period) and whether there are any recommendations regarding these aspects (please provide the exact quotation in both, the national as well as in English language). These reports can be found on the webpage of the National Preventive Mechanism. For ease of reference, a list of links can be found via the OPCAT Database.
Luxembourg, Ombudsperson, External control service for places of deprivation of liberty (<i>Service du contrôle externe des lieux privés de liberté</i>) (2010) Report regarding the entry and health of the detainee within prison (<i>Rapport relatif à l'entrée du détenu en milieu carcéral et à la santé en milieu carcéral</i>). According to the 2010 Ombudsman's report⁶¹, sports activities are very important in the life of detainees because they release tensions. The Ombudsperson confirms the efforts made by the CPL to create an adequate and functional sports ground for the development of sports activities by two staff members. The Ombudsperson accentuates the importance of access to open air for the detainees. Within CPL, the right to open air is respected, at the exception of several cases within one of the blocks (E). Within the CPG, male detainees can move freely among the CPG central buildings which is a green space, whereas female detainees can move freely only within the restricted courtyard.

⁵⁸ Luxembourg, [the Act of 16 June 2004 regarding the reorganisation of the State Socio-Educational Centre](#), (*Loi du 16 juin 2004 portant réorganisation du centre socio-éducatif de l'Etat - CSEE*).

⁵⁹ Luxembourg, Article 34 of the [Act of 20 July 2018 reforming the prison administration](#) (*Loi du 20 juillet 2018 portant réforme de l'administration pénitentiaire*).

⁶⁰ Luxembourg, Article 35(1) of the [Act of 20 July 2018 reforming the prison administration](#) (*Loi du 20 juillet 2018 portant réforme de l'administration pénitentiaire*).

⁶¹ Luxembourg, Articles 111 and 113 of of [the Grand-Ducal Regulation of 24 March 1989 concerning the administration and internal regime of penitentiary establishments](#) (*Règlement modifié grand-ducal du 24 mars 1989 concernant l'administration et le régime interne des établissements pénitentiaires*).

According to the Ombudsman's report (2010)⁶², the detainees newly arrived in block E did not have the right to a daily walk.

"At the CPL, sports activities are organized from Monday to Thursday, 7.15 a.m. to 8.45 p.m., Fridays from 8.15 a.m. to 8.45 p.m. and Saturdays from 8.15 a.m. to 11.30 a.m. According to the sports activities program, in particular the prisoners of the P3 block, without work or in the D block, have the possibility of practicing sport twice a week, between 7.15 am and 8.45 am. As already noted, the Mediator is aware of the complex organizational imperatives surrounding sports activities at the CPL. However, as already noted in 2010, the mediator considers that the sports activities for the detainees in the detention blocks take place at an excessively early time of the day.

The Ombudsperson can accept that it is necessary to start sports activities early in the morning to be able to maintain a correct offer for all detainees. Nevertheless, The Mediator recommends modifying the sports activities program so that it is not always the same detainees who have their activities so early in the morning, or even that it is only once a week that the activities take place so early. The Mediator wonders, for example, whether the activities of detainees without work in blocks P3, A and C could not be exchanged once a week. A similar solution could be considered for inmates in Block D. " (p.44).

« (86) Au CPL, les activités sportives sont organisées du lundi au jeudi, de 7h15 à 20h45, les vendredis de 8h15 à 20h45 et les samedis de 8h15 à 11h30. Suivant le programme des activités sportives, notamment les détenus du bloc P3, sans travail ou du bloc D, ont la possibilité de pratiquer du sport deux fois par semaine, entre 7h15 et 8h45. Comme elle l'a déjà remarqué, la Médiateure est consciente des impératifs d'organisation complexe qui entourent les activités sportives au CPL. Toutefois, comme il avait déjà été remarqué en 2010, elle estime que les activités sportives pour les détenus des blocs de détention pré-mentionnés se déroulent à un moment excessivement tôt de la journée.

La Médiateure peut admettre qu'il faut débiter les activités sportives aussi tôt le matin afin de pouvoir maintenir une offre correcte pour tous les détenus. Néanmoins, elle recommande de modifier le programme des activités sportives de sorte que ce ne soient pas toujours les mêmes détenus qui aient leurs activités aussi tôt les matins, voire que ce ne soit qu'une fois par semaine que les activités aient lieu de si bonne heure. La Médiateure se demande par exemple si les activités des détenus sans travail des blocs P3, A et C ne pouvaient pas être échangées une fois par semaine. Une solution similaire pourrait être envisagée pour les détenus du bloc D. » (p.44)⁶³

"The Mediator has already often insisted on the importance that must be given to access to the open air for all persons deprived of their liberty. At CPL, except for the very slight discrepancies already mentioned which were reported to the inmate control team staying in Block E, this right to air is generally well respected. At CPG, the issue of access to fresh air does not arise in the same way, when inmates are not locked up all day. However, the Ombudsperson must note that the courtyard, which has been fitt to provide access to the open air behind the building which accommodates women, leaves much to be desired. It is indeed difficult to understand that male prisoners can move freely around the central buildings of the CPG, which is a green space, very well equipped and that female prisoners are obliged to spend their time in the open air in this courtyard.

⁶² Luxembourg, Ombudsperson, External control service for places of deprivation of liberty (*Service du contrôle externe des lieux privés de liberté*) (2010) [Report regarding the entry and health of the detainee within prison](#) (*Rapport relatif à l'entrée du détenu en milieu carcéral et à la santé en milieu carcéral*).

⁶³ Luxembourg, Ombudsperson, External control service for places of deprivation of liberty (*Service du contrôle externe des lieux privés de liberté*) (2010) [Report regarding the entry and health of the detainee within prison](#) (*Rapport relatif à l'entrée du détenu en milieu carcéral et à la santé en milieu carcéral*).

This procedure is more difficult to understand as prisoners of both sexes are required to work together, to participate together in certain sports activities and to have their meals together, even if during meals. The Mediator recommends that the competent authorities either make the courtyard reserved for women more pleasant or allow them to move freely on the site like men”.

« La Médiateure a déjà souvent insisté sur l’importance qui doit être accordée à l’accès à l’air libre pour toutes les personnes privées de liberté. Au CPL, sauf de très légers écarts déjà mentionnés qui ont été rapportés à l’équipe de contrôle de détenus séjournant au bloc E, ce droit à l’air libre est généralement bien respecté. Au CPG, la question de l’accès à l’air libre ne se pose pas de la même manière, alors que les détenus ne sont pas enfermés toute la journée. Néanmoins, la Médiateure doit constater que la cour qui a été aménagée pour offrir l’accès à l’air libre derrière le bâtiment accueillant les femmes laisse largement à désirer. Il est en effet difficilement compréhensible que les détenus masculins peuvent circuler librement autour des bâtiments centraux du CPG, qui constitue un espace vert, très bien aménagé et que les détenus de sexe féminin soient obligés de passer leur temps à l’air libre dans cette cour.

Cette procédure est d’autant plus difficilement compréhensible que les détenus des deux sexes sont amenés à travailler ensemble, à participer ensemble à certaines activités sportives et à prendre leurs repas ensemble, même si pendant les repas, il est également opéré une certaine séparation par le fait que les femmes doivent s’asseoir à une table à elles réservée. La Médiateure recommande aux autorités compétentes, soit d’aménager de manière plus agréable la cour réservée aux femmes, soit de leur permettre de se promener également librement sur le site à l’instar des hommes. »⁶⁴

4. Solitary confinement

a) What are the national standards regarding solitary confinement?

There are several categories of people who could be placed in solitary confinement, they are:

- pre-trial detainees, upon decision of the magistrate,
- prisoners, whose behaviour was found unfit for a communal life;
- inmates with increased risk of escape,
- inmates who may physically or morally harm themselves or others. ⁶⁵.

Solitary confinement consists of separating detainees from other detainees and placing them in their cells during the day and at night. The person may be placed (a) in an individual cell;(b) in a security cell specially equipped to prevent any act of vandalism, aggression, and self-harm, or (c) in an observation cell allowing permanent video surveillance of the detainee.⁶⁶

⁶⁴ Luxembourg, Ombudsperson, External control service for places of deprivation of liberty (*Service du contrôle externe des lieux privés de liberté*) (2010) [Report regarding the entry and health of the detainee within prison](#) (*Rapport relatif à l’entrée du détenu en milieu carcéral et à la santé en milieu carcéral*).

⁶⁵ Luxembourg, Art 29(2) of [the Act of 20 July 2018 reforming the prison administration](#) (*Loi du 20 juillet 2018 portant réforme de l’administration pénitentiaire*).

⁶⁶ Luxembourg, Article 30 a) to c) of [the Act of 20 July 2018 reforming the prison administration](#) (*Loi du 20 juillet 2018 portant réforme de l’administration pénitentiaire*).

The duration of the placement is limited to what is strictly necessary. It may not exceed twenty-four hours unless it is extended by a reasoned decision of the director of the penitentiary centre for periods of twenty-four hours.⁶⁷

Time in an individual cell is set for a maximum of 14 days, during which no purchase in canteen, no work, no other benefits are allowed, etc.;⁶⁸ these limitations/deprivations could be imposed cumulatively.⁶⁹

Detention Centre: Detainees can be placed in isolation within a cell with limited furniture. Their right to participate in activities, to receive letters and visits and to purchase things is prohibited as long as the solitary confinement is ongoing. Nevertheless, the detainees preserve their access to one hour of outdoor walk during their isolation measure.⁷⁰

b) Are there any national standards with regard to checking and/or monitoring the wellbeing of detainees in solitary confinement? If so, what do they require?

If the health of the inmate in solitary cell requires, she/he may be placed in an observation cell by decision of a doctor⁷¹.

In any event, without delay each detainee placed (a) in an individual cell; (b) in a security cell or 3) in an observation cell must be seen either by a doctor or by a nurse, who reports to the doctor who must see the detainee, within the first twenty-four hours⁷².

c) Please indicate whether there are different standards applicable to different detention regimes (pre-trial and post-trial detention and for example, if applicable in your jurisdiction: open, semi-open, closed etc.).

CSEE: Solitary confinement includes measures such as the temporary exclusion from common activities, increased surveillance, transfer to another unit of the detention facility, temporary confinement to the room (cell), temporary isolation measure (i.e., solitary confinement)⁷³. Such measures can be imposed on a detained minor only upon a formal order by the Director of the CSEE or one of his/her delegates with a special security or disciplinary mandate, and the temporary isolation measure can only be imposed in case of serious motive which are duly documented. A solitary confinement measure can last for a maximum of 10 days.⁷⁴ Corporal punishment is strictly forbidden.

Furthermore, according to article 9(3)⁷⁵ relative to solitary confinement as a disciplinary measure states that such a measure can last for a maximum of 72 hours. A report must

⁶⁷ Luxembourg, Article 30 (3) of [the Act of 20 July 2018 reforming the prison administration](#) (Loi du 20 juillet 2018 portant réforme de l'administration pénitentiaire).

⁶⁸ Luxembourg, Article 32 (4) of [the Act of 20 July 2018 reforming the prison administration](#) (Loi du 20 juillet 2018 portant réforme de l'administration pénitentiaire).

⁶⁹ Luxembourg, Article 32 (5) of [the Act of 20 July 2018 reforming the prison administration](#) (Loi du 20 juillet 2018 portant réforme de l'administration pénitentiaire).

⁷⁰ Luxembourg, Article 20 [the Act of 28 May 2009 regarding the creation and organisation of the Detention Centre](#) (Loi du 28 mai 2009 portant création et organisation du Centre de rétention).

⁷¹ Luxembourg, Article 30 (2) of [the Act of 20 July 2018 reforming the prison administration](#) (Loi du 20 juillet 2018 portant réforme de l'administration pénitentiaire).

⁷² Luxembourg, Article 30 (2) of [the Act of 20 July 2018 reforming the prison administration](#) (Loi du 20 juillet 2018 portant réforme de l'administration pénitentiaire).

⁷³ Luxembourg, Article 9 of [the Act of 29 August 2017 amending the Act of 16 June 2004 regarding the reorganisation of the State Socio-Educational Centre](#) (Loi du 29 août 2017 portant modification de la loi modifiée du 16 juin 2004 portant réorganisation du centre socio-éducatif de l'État).

⁷⁴ Luxembourg, Information is provided in FRANET Luxembourg report 2018.

⁷⁵ Luxembourg, [the Act of 29 August 2017 amending the Act of 16 June 2004 regarding the reorganisation of the State Socio-Educational Centre](#) (Loi du 29 août 2017 portant modification 1. de la loi modifiée du 16 juin 2004 portant réorganisation du centre socio-éducatif de l'État).

be written, documenting the behaviour of the minor that led to the measure, as well as his/her prior disciplinary sanctions if any. The Director or his/her delegate decides upon the potential disciplinary measure and must do so within one month from the time of the incident underlying the measure. The measure should be justified and proportionate, and the Director can put an end to the measure at any time. During the period of solitary confinement, the minor is entitled to a minimum of one hour of exercise in open air per day. A nurse or doctor must be informed each time a measure of solitary confinement is imposed and must have free access to the minor during the duration of the disciplinary sanction.

d) Please indicate any remedies available to detainees in case of a breach or violation of the standards addressed under 4. a) - c), including their respective legal basis.

General: All decisions taken with regard to detainees by the directors of penitentiary centres in application of this law may be the subject of an administrative appeal before the director of the prison administration. This appeal must be lodged, under penalty of inadmissibility, in writing within eight working days (from the moment of the notification of the decision by the director of the detention facility).⁷⁶

All decisions taken regarding detainees by the director of the penitentiary administration in application of this law may be the subject of a judicial appeal before the penalty enforcement chamber. This appeal must be lodged in writing within eight working days (from the moment of the notification of the decision by the director of the detention facility). The judicial appeal lodged directly against a decision of a director of the penitentiary centre is inadmissible.⁷⁷

e) Please, provide a link to the National Preventive Mechanism's reports **from the reference period** (1 May 2018 to 15 April 2021; if no report is available for this period, please provide links to the most recent one and the relevant CPT reports from the reference period) and whether there are any recommendations regarding this aspect (please provide the exact quotation in both, the national as well as in English language). These reports can be found on the webpage of the National Preventive Mechanism. For ease of reference, a list of links can be found via the [OPCAT Database](#).

Ombudsperson, Control service for places of deprivation of liberty (*Contrôle externe des lieux privés de liberté* (2016). [The disciplinary system in prisons. A Follow up report](#) (*Le système disciplinaire en milieu carcéral. Rapport de suivi*).

Following recommendations from the CPT to reduce the maximum time for solitary confinement, Luxembourg has reduced this measure to 14 days in practice.

The CPT, the Committee and the Ombudsperson have recommended to change the relevant legislation. As the strict solitary confinement regime has been abolished in disciplinary matters, as also emerges from the CPT's report concerning its visit to

⁷⁶ Luxembourg, Article 34 of the [Act of 20 July 2018 reforming the prison administration](#) (*Loi du 20 juillet 2018 portant réforme de l'administration pénitentiaire*).

⁷⁷ Luxembourg, Article 35(1) of the [Act of 20 July 2018 reforming the prison administration](#) (*Loi du 20 juillet 2018 portant réforme de l'administration pénitentiaire*).

Luxembourg in 2015, the Ombudsperson endorses the following recommendation formulated in this document:

"As regards discipline, the CPT notes that improvements have been made in practice, in particular by (...) putting an end to the use of strict solitary confinement for disciplinary reasons; it is recommended to modify the legislation in force accordingly. The Committee also makes several specific recommendations to strengthen the rights of detainees in disciplinary proceedings. "And" (...) However, it (ie the CPT) notes with satisfaction that the authorities have taken the decision not to resort to the RCS for disciplinary reasons since 2011. The Committee recommends that the legislation in force be amended in order to put a definitive end to the possibility of placing a prisoner in strict solitary confinement as a disciplinary sanction. ". Like the CPT, the Mediator calls on the competent authorities to adapt the national regulations and the corresponding internal service provision of the CPL (DIS 12) by excluding the strict solitary confinement regime from possible disciplinary sanctions."

« Comme le régime cellulaire strict a été définitivement aboli en matière disciplinaire tel qu'il ressort également du rapport du CPT concernant sa visite à Luxembourg de 2015, la Médiateure fait sienne la recommandation suivante formulée dans ce document : « En matière de discipline, le CPT constate que des améliorations ont été apportées dans la pratique notamment en (...) en mettant un terme au recours au régime cellulaire strict pour des raisons disciplinaires ; il est recommandé de modifier la législation en vigueur en conséquence. Le Comité formule également plusieurs recommandations spécifiques afin de renforcer les droits des détenus dans le cadre des procédures disciplinaires. » et « (...) Cela étant, il (i.e. le CPT) note avec satisfaction que les autorités ont pris la décision de ne plus recourir au RCS pour des raisons disciplinaires depuis 2011. Le Comité recommande que la législation en vigueur soit modifiée afin de mettre un terme définitif à la possibilité de placer un détenu au régime cellulaire strict en tant que sanction disciplinaire. ». Tout comme le CPT, la Médiateure lance un appel aux autorités compétentes afin d'adapter la réglementation nationale et la disposition de service interne du CPL correspondante (DIS 12) en excluant le régime cellulaire strict des sanctions disciplinaires possibles. »⁷⁸

These recommendations, pronounced by the CPL, were included in the Act of 20 July 2018 reforming prison administration⁷⁹.

5. Access to healthcare

- a) What is the national standard with regard to access to medical services in prisons, including emergency care? (E.g.: Do detainees have prompt access to medical services within prisons and/or externally? Do detainees have access to dentists, opticians, etc.?) If so, what does it require?

Each prisoner is entitled to appropriate and sufficient measures for ensuring adequate healthcare, and, depending on the health, healthcare can be provided inside or outside the establishment ⁸⁰. The quality of the healthcare services is equivalent to "what

⁷⁸ Luxembourg, Ombudsperson, External control service for places of deprivation of liberty (*Service du contrôle externe des lieux privés de liberté*) (2010) [Report regarding the entry and health of the detainee within prison](#) (*Rapport relatif à l'entrée du détenu en milieu carcéral et à la santé en milieu carcéral*).

⁷⁹ Luxembourg, [The Act of 20 July 2018 reforming the prison administration](#) (*Loi du 20 juillet 2018 portant réforme de l'administration pénitentiaire*).

⁸⁰ Luxembourg, Article 26 (1) of [the Act of 20 July 2018 reforming the prison administration](#) (*Loi du 20 juillet 2018 portant réforme de l'administration pénitentiaire*).

detainees might be entitled to in the absence of imprisonment".⁸¹ Penitentiary centres have a collaboration agreement with the Luxembourg Hospital Centre (*Centre Hospitalier de Luxembourg*, CHL) and the Neuropsychiatric Hospital Centre (*Centre Hospitalier Neuropsychiatrique*, CHNP).⁸²

The CHL doctors cover a frequency of 4 h/week to 4h per trimester and the rest is covered by external doctors according to needs⁸³. Furthermore, the pharmacy is managed by a pharmacist full-time. All medical consultation at the CPG is carried out by an independent doctor, who is present at the CPG every Wednesday from 16h to 18H. For any medical incident outside these hours, the detainees can go to the doctor's office for a private consultation. Regarding psychiatric care and psychiatric medicine, CPL and CPG have concluded an agreement with the CHNP.

Dental checks are provided regularly, there are emergency visits, if necessary.⁸⁴

b) Are there any national standards concerning the availability of qualified medical and nursing personnel? If so, what do they require?

In each detention establishment there is a general doctor, a dentist, a (neuro) psychiatrist and a nurse.⁸⁵

c) Are there any national standards for an initial medical examination upon deprivation of liberty or transfer of a detainees? If so, what do they require?

After admission each detainee is examined as soon as possible and as often as necessary. The medical examination includes both, an examination of the detainee's physical as well as the mental state of health. If there is a danger to contagion, detainees should be separated.⁸⁶

d) Are there any national standards relating to the provision of specialist care? (E.g. for long-term diseases, for sick and elderly detainees, the mentally ill, drug addicted detainees, etc.) If so, what do they require?

There is a special medical section that operates within the Luxembourg detention facility (CPL - *Centre pénitentiaire de Luxembourg*) in order to receive detainees addicted to drugs⁸⁷.

⁸¹ Luxembourg, Article 26 (1) of [the Act of 20 July 2018 reforming the prison administration](#) (*Loi du 20 juillet 2018 portant réforme de l'administration pénitentiaire*).

⁸² Luxembourg, Ombudsperson, External control service for places of deprivation of liberty (*Service du contrôle externe des lieux privés de liberté*) (2010) [Report regarding the entry and health of the detainee within prison](#) (*Rapport relatif à l'entrée du détenu en milieu carcéral et à la santé en milieu carcéral*).para.19 p. 74

⁸³ Luxembourg, Ombudsperson, External control service for places of deprivation of liberty (*Service du contrôle externe des lieux privés de liberté*) (2010) [Report regarding the entry and health of the detainee within prison](#) (*Rapport relatif à l'entrée du détenu en milieu carcéral et à la santé en milieu carcéral*).para. 19, p. 74 p

⁸⁴ Luxembourg, Article 90 of [the Grand-Ducal Regulation of 24 March 1989 concerning the administration and internal regime of penitentiary establishments](#) (*Règlement modifié grand-ducal du 24 mars 1989 concernant l'administration et le régime interne des établissements pénitentiaires*).

⁸⁵ Luxembourg, Article 28 of [the Grand-Ducal Regulation of 24 March 1989 concerning the administration and internal regime of penitentiary establishments](#) (*Règlement grand-ducal du 24 mars 1989 concernant l'administration et le régime interne des établissements pénitentiaires*).

⁸⁶ Luxembourg, Article 83 of [the Grand-Ducal Regulation of 24 March 1989 concerning the administration and internal regime of penitentiary establishments](#) (*Règlement grand-ducal du 24 mars 1989 concernant l'administration et le régime interne des établissements pénitentiaires*).

⁸⁷ Luxembourg, Article 9 of [the Act of 27 July 1997 regarding the reorganisation of the prison administration](#) (*Loi du 27 juillet 1997 portant réorganisation de l'administration pénitentiaire*).

Since 2018 there is a neuropsychiatric hospital centre within the Luxembourg detention facility (CPL - *Centre pénitentiaire de Luxembourg*), which is administratively independent from the penitentiary establishments⁸⁸.

e) Are there any national standards with regard to a medical treatment of the detainee's own choosing? If so, what do they require?

Doctors may further ask for assistance of specialised doctors for further medical examination and treatment of detainees.⁸⁹ Premises are also fitted out for medical consultation and pharmacy.⁹⁰ Each detainee may seek treatment at the premises of the establishment by the doctor of choice. Healthcare can be provided inside or outside the establishments.⁹¹ The state covers the costs of the treatment^{92 93}.

f) Please indicate whether there are different standards applicable to different detention regimes (pre-trial and post-trial detention and for example, if applicable in your jurisdiction: open, semi-open, closed etc.).

CPG: A nurse could be called, if necessary.⁹⁴

CSEE: A reference is made to the medical staff of the State Socio-Educational Centre but no further details are provided⁹⁵.

The CSEE has one nurse and two child-psychiatrists collaborating with the medical staff, as well as a general physician. Upon request and depending on the situation, access is available to a gynaecologist, a dentist and an optician⁹⁶.

The general medical aspects of the detainees, such as minor wounds, routine exams, prescription drugs and psychiatric care are taken care of during their stay at the security unit. In case of more serious issues such as coming off drugs or suicide attempts, a child psychiatrist evaluates if the care can be done while the child is detained in the security unit or if the detainee must be hospitalized⁶⁸.

⁸⁸ Luxembourg, [the Act of 20 July 2018 reforming the prison administration](#) (*Loi du 20 juillet 2018 portant réforme de l'administration pénitentiaire*).

⁸⁹ Luxembourg, Article 31 of [the Grand-Ducal Regulation of 24 March 1989 concerning the administration and internal regime of penitentiary establishments](#) (*Règlement modifié grand-ducal du 24 mars 1989 concernant l'administration et le régime interne des établissements pénitentiaires*).

⁹⁰ Luxembourg, Article 33 of [the Grand-Ducal Regulation of 24 March 1989 concerning the administration and internal regime of penitentiary establishments](#) (*Règlement modifié grand-ducal du 24 mars 1989 concernant l'administration et le régime interne des établissements pénitentiaires*).

⁹¹ Luxembourg, Article 26(1) of [the Grand-Ducal Regulation of 24 March 1989 concerning the administration and internal regime of penitentiary establishments](#) (*Règlement modifié grand-ducal du 24 mars 1989 concernant l'administration et le régime interne des établissements pénitentiaires*).

⁹² Luxembourg, [the Grand-Ducal Regulation of 24 March 1989 concerning the administration and internal regime of penitentiary establishments](#) (*Règlement grand-ducal du 24 mars 1989 concernant l'administration et le régime interne des établissements pénitentiaires*).

⁹³ Luxembourg, Article 13 of the [Act of 16 June 2004 on the reorganization of the State socio-educational center](#) (*Loi du 16 juin 2004 portant réorganisation du centre socio-éducatif de l'Etat*).

⁹⁴ Luxembourg, Article 32 of [the Grand-Ducal Regulation of 24 March 1989 concerning the administration and internal regime of penitentiary establishments](#) (*Règlement grand-ducal du 24 mars 1989 concernant l'administration et le régime interne des établissements pénitentiaires*).

⁹⁵ Luxembourg, [the Act of 29 August 2017 amending the Act of 16 June 2004 regarding the reorganisation of the State Socio-Educational Centre](#) (*Loi du 29 août 2017 portant modification 1. de la loi modifiée du 16 juin 2004 portant réorganisation du centre socio-éducatif de l'Etat*).

⁹⁶ Luxembourg, email correspondence with the Director of the CSEE, 18 June 2018.

Detention Centre: Upon arrival, the detainee is placed by the director into a unit. If the medical examination requires, the detainee could be placed in another unit.⁹⁷ There is permanent access to medical care for the detainees⁹⁸ However, dental care is limited to the necessary minima and urgent situations⁹⁹. In addition, the Minister of Immigration takes care of the healthcare of the detainees.¹⁰⁰ The detainee is examined and treated by the doctor, that is appointed by the Government. The initiative for a medical consultation comes either from the detainee or the responsible person of the centre.¹⁰¹ Furthermore, the director may also invite the medical assistance for a medical examination if it is in the interest of the detainee, other detainees or staff of the centre.¹⁰² The call-on doctor may assign treatment. The doctor of the centre may ask for a transfer of the sick detainee to a hospital. Upon a doctor's request, prescribed medication can be kept distributed to the detainee by the medical team.¹⁰³

g) Please indicate any remedies available to detainees in case of a breach or violation of the standards addressed under 5. a) – f), including their respective legal basis.

General - All decisions taken regarding detainees by the directors of penitentiary centres in application of this law may be the subject of an administrative appeal before the director of the prison administration. This appeal must be lodged, under penalty of inadmissibility, in writing within eight working days (from the moment of the notification of the decision by the director of the detention facility).¹⁰⁴

All decisions taken regarding detainees by the director of the penitentiary administration in application of this law may be the subject of a judicial appeal before the penalty enforcement chamber. This appeal must be lodged in writing within eight working days (from the moment of the notification of the decision by the director of the detention facility). The judicial appeal lodged directly against a decision of a director of the penitentiary centre is inadmissible.¹⁰⁵

h) Please, provide a link to the National Preventive Mechanism's reports from the reference period (1 May 2018 to 15 April 2021; if no report is available for this period, please provide links to the most recent one and the relevant CPT reports from the reference period) and whether there are any recommendations regarding these aspects (please provide the exact quotation in both, the national as well as in English language). These reports can be found on the

⁹⁷ Luxembourg. Article 7 of [Grand Ducal Regulation of 17 August 2011 setting the conditions and practical modalities of the detention regime of the detention center](#) (*Règlement grand-ducal du 17 août 2011 fixant les conditions et les modalités pratiques du régime de rétention du Centre de rétention*).

⁹⁸ Luxembourg, Article 9 of [the Act of 28 May 2009 regarding the creation and organisation of the Detention Centre](#) (*Loi du 28 mai 2009 portant création et organisation du Centre de rétention*).

⁹⁹ Luxembourg, Article 9 of [the Act of 28 May 2009 regarding the creation and organisation of the Detention Centre](#) (*Loi du 28 mai 2009 portant création et organisation du Centre de rétention*).

¹⁰⁰ Luxembourg, Article 9 and 28 of [the Act of 28 May 2009 regarding the creation and organisation of the Detention Centre](#) (*Loi du 28 mai 2009 portant création et organisation du Centre de rétention*).

¹⁰¹ Luxembourg, Article 12 of [the Grand-Ducal Regulation of August 17, 2011 setting the conditions and practical modalities of the detention regime of the detention center](#) (*Règlement grand-ducal du 17 août 2011 fixant les conditions et les modalités pratiques du régime de rétention du Centre de rétention*).

¹⁰² Luxembourg, Article 12 of [the Grand-Ducal Regulation of August 17, 2011 setting the conditions and practical modalities of the detention regime of the detention center](#) (*Règlement grand-ducal du 17 août 2011 fixant les conditions et les modalités pratiques du régime de rétention du Centre de rétention*).

¹⁰³ Luxembourg, Article 12 of [the Grand-Ducal Regulation of August 17, 2011 setting the conditions and practical modalities of the detention regime of the detention center](#) (*Règlement grand-ducal du 17 août 2011 fixant les conditions et les modalités pratiques du régime de rétention du Centre de rétention*).

¹⁰⁴ Luxembourg, Article 34 of the [Act of 20 July 2018 reforming the prison administration](#) (*Loi du 20 juillet 2018 portant réforme de l'administration pénitentiaire*).

¹⁰⁵ Luxembourg, Article 35(1) of the [Act of 20 July 2018 reforming the prison administration](#) (*Loi du 20 juillet 2018 portant réforme de l'administration pénitentiaire*).

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According to the Ombudsperson¹⁰⁶, despite the fact there are a number of health-related organizations involved in the support of the healthcare of detainees, there is no clear hierarchisation of the person in charge, or a job description. This has proven highly problematic and is one of the reasons of the weak coordination and internal organisation of the medical care of the detainees. This problem was also highlighted through the Ombudsman's own experience, who had to contact the general director of the CHL in order to receive medical information regarding certain detainees (even if the medical secret cannot be invoked before the Ombudsperson)¹⁰⁷. The unwillingness of the CPL to provide the Ombudsperson with the medical files was based on a pretext of non-clarified responsibilities. The Ombudsperson has emphasised the importance of appointing a person in charge and an organisational chart for every service.

In one of the reports (2020)¹⁰⁸, the Ombudsperson raised concerns regarding the use of drug use and its monitoring in detention establishments. Apart from sanctions, there are no other instruments of precaution of drug use in Luxembourg detention facility in (CPL - *Centre pénitentiaire de Luxembourg*), the Givenich detention facility (CPG - *centre pénitentiaire de Givenich*) and Uerschterhaff Prison Center (CPU - *Centre pénitentiaire d'Uerschterhaff*). Furthermore, the Ombudsperson drew attention to the situation that, prior to a transfer (from CPG to CPL) a detainee is placed in isolation, with no medical monitoring. The Ombudsperson "would like to have a position taken by the medical services regarding the health risks following the consumption of narcotics and the monitoring methods that would be necessary".

"The External Controller asks themselves about the medical risks that may arise after drug use and the monitoring procedures that may be required. Apart from the penalties which are pronounced following a positive test, there do not seem to be any precautions. This also applies to CPL and CPG. At the CPG, it is added that the detainee, for whom a transfer to the CPL has been ordered, is placed in an isolation cell until the moment of his/her transfer and that the CPG does not even have infirmary premises where monitoring could be carried out" (p.47).

« Le Contrôleur externe s'interroge sur les risques médicaux qui peuvent se présenter après une consommation de stupéfiants et des modalités de surveillance qui pourraient s'imposer. A part les sanctions qui sont prononcées suite à un test positif, il ne semble pas y avoir de précautions particulières. Ceci vaut de la même manière pour le CPL et le CPG. Au CPG, il s'ajoute que le détenu, pour lequel un transfert au CPL a été ordonné, est placé dans une cellule d'isolement jusqu'au moment de son transfert et que le CPG ne dispose même pas de locaux d'infirmerie où une surveillance pourrait être réalisée. Le Contrôleur externe est d'avis que cette situation est hautement dangereuse et se pose la question de la responsabilité de l'Etat en cas d'incident indésirables auprès une consommation détectée. Il souhaite avoir une prise de position des services médicaux quant aux risques de santé suite à une consommation de stupéfiants et les modalités de surveillance qui seraient nécessaires » (p.47).

¹⁰⁶ Luxembourg, Ombudsperson, External control service for places of deprivation of liberty (*Service du contrôle externe des lieux privés de liberté*) (2010) [Report regarding the entry and health of the detainee within prison](#) (*Rapport relatif à l'entrée du détenu en milieu carcéral et à la santé en milieu carcéral*).

¹⁰⁷ Luxembourg, Ombudsperson, External control service for places of deprivation of liberty (*Service du contrôle externe des lieux privés de liberté*) (2010) [Report regarding the entry and health of the detainee within prison](#) (*Rapport relatif à l'entrée du détenu en milieu carcéral et à la santé en milieu carcéral*), p. 77-79.

¹⁰⁸ Luxembourg, Ombudsperson, External control service for places of deprivation of liberty (*Contrôle externe des lieux privés de liberté*) (2020). [The problem of drugs in prisons](#) (*La problématique des stupéfiants en milieu carcéral*).

6. Special measures in place to protect young detainees

- a) Are there any national standards with regard to the separation of young detainees from adults? If so, what do they require? (e.g. a separate juvenile ward, or part of the building, canteen, common area etc.?)

The socio-educational centre of the state (*Le centre socio-éducatif de l'Etat*) accommodates minors (under 18) upon the judicial authorities within the youth protection system. Upon request, persons could stay after reaching 18 years¹⁰⁹.

The Act of 1992 regarding youth protection¹¹⁰ sets forth that, only in case of absolute necessity, a minor can be detained temporarily in an adult prison for a period that does not exceed one month. In such cases, the young detainee must be separated from other detainees, and is subject to special conditions that shall be determined by the rules of the penitentiary administration. The law¹¹¹ also sets forth that in cases, in which a minor who is 16 years of age or older, has committed an infraction, and a "normal" measure is considered inadequate, the judge can decide that the case should be treated in a regular (adult) tribunal. In such cases, the minor can be convicted to regular prison.

Minors who are detained in the penitentiary centre benefit from a special regime, which is different from the adult prisoners¹¹². The regime of defendants and that of minors are distinct from that of convicted persons.¹¹³ Minors are not placed in solitary cells unless it is in the best interest of the minor.¹¹⁴

Draft bill 7276¹¹⁵ establishing a youth protection system is to be redrafted and presented sometime in the future (foreseen in 2021).¹¹⁶ It would include a complete reform of the juvenile criminalisation. It would guarantee that no minor is to be placed in detention establishment for adults.

- b) Please indicate the age categories of young persons falling under your country's (juvenile) detention regime.

¹⁰⁹ Luxembourg, Article 1 of the [Act of 16 June 2004 on the reorganization of the State socio-educational center](#) (Loi du 16 juin 2004 portant réorganisation du centre socio-éducatif de l'Etat).

¹¹⁰ Luxembourg, Article 26 of [the Act of 10 August 1992 regarding youth protection](#) (Loi du 10 août 1992 relative à la protection de la jeunesse).

¹¹¹ Luxembourg, Article 32 of [the Act of 10 August 1992 regarding youth protection](#) (Loi du 10 août 1992 relative à la protection de la jeunesse).

¹¹² Luxembourg, Article 138 of [the Grand-Ducal Regulation of 24 March 1989 concerning the administration and internal regime of penitentiary establishments](#) (Règlement grand-ducal du 24 mars 1989 concernant l'administration et le régime interne des établissements pénitentiaires).

¹¹³ Luxembourg, Article 138 of [the Grand-Ducal Regulation of 24 March 1989 concerning the administration and internal regime of penitentiary establishments](#) (Règlement grand-ducal du 24 mars 1989 concernant l'administration et le régime interne des établissements pénitentiaires).

¹¹⁴ Luxembourg, Article 29 (3) of [the Act of 20 July 2018 reforming the prison administration](#) (Loi du 20 juillet 2018 portant réforme de l'administration pénitentiaire).

¹¹⁵ Luxembourg, [Draft Bill° 7276 establishing a youth protection system](#) (Projet du loi N° 7276 instituant un régime de protection de la jeunesse).

¹¹⁶ Luxembourg, the Parliament, [Parliamentary question N°1778 regarding placement of a minor at the the Luxembourg Prison Centre](#) (Réponse de la Ministre de la Justice à question N°1778 de Monsieur Gilles Roth et de Monsieur Laurent Mosar concernant Placement d'un mineur au Centre pénitentiaire de Luxembourg).

Minors (under 18) are those placed inside a penitentiary establishment in execution of a measure taken based on the legislation on the protection of young people.¹¹⁷

Upon request of the person, in the socio-educational centre, activities could be continued beyond age limits stipulated in the law on age protection.¹¹⁸

- c) Please indicate whether there are different standards applicable to different detention regimes (pre-trial and post-trial detention and for example, if applicable in your jurisdiction: open, semi-open, closed etc.).

Detention centre: Persons and/or families with minors are placed in special units assigned for them.¹¹⁹ Particular attention is paid to the situation of vulnerable persons, namely minors, unaccompanied minors, disabled persons, the elderly, pregnant women, single parents accompanied by minor children and persons who have been victims of torture, rape or other serious form of psychological, physical or sexual violence ¹²⁰.

- d) Please indicate any remedies available to young detainees in case of a breach or violation of the standards addressed under 6. a) – c), including their respective legal basis.

General: All decisions taken with regard to detainees by the directors of penitentiary centers in application of this law may be the subject of an administrative appeal before the director of the prison administration. This appeal must be lodged, under penalty of inadmissibility, in writing within eight working days (from the moment of the notification of the decision by the director of the detention facility).¹²¹

All decisions taken with regard to detainees by the director of the penitentiary administration in application of this law may be the subject of a judicial appeal before the penalty enforcement chamber. This appeal must be lodged in writing within eight working days (from the moment of the notification of the decision by the director of the detention facility). The judicial appeal lodged directly against a decision of a director of the penitentiary center is inadmissible.¹²²

- e) Please, provide a link to the National Preventive Mechanism's reports **from the reference period** (1 May 2018 to 15 April 2021; if no report is available for this period, please provide links to the most recent one and the relevant CPT reports from the reference period) and whether there are any recommendations regarding this aspect (please provide the exact quotation in both, the national as well as in English language). These reports can be found on the webpage of the

¹¹⁷ Luxembourg, Article 2 of [the Grand-Ducal Regulation of 24 March 1989 concerning the administration and internal regime of penitentiary establishments](#) (*Règlement grand-ducal du 24 mars 1989 concernant l'administration et le régime interne des établissements pénitentiaires*).

¹¹⁸ Luxembourg, Article 1 of the [Act of 16 June 2004 on the reorganization of the State socio-educational center](#) (*Loi du 16 juin 2004 portant réorganisation du centre socio-éducatif de l'Etat*).

¹¹⁹ Luxembourg, Article 6(3) of the [Act of 28 May 2009 regarding the creation and organisation of the Detention Centre](#) (*Loi du 28 mai 2009 portant création et organisation du Centre de rétention*).

¹²⁰ Luxembourg, Article 7(2) of the [Act of 28 May 2009 regarding the creation and organisation of the Detention Centre](#) (*Loi du 28 mai 2009 portant création et organisation du Centre de rétention*).

¹²¹ Luxembourg, Article 34 of the [Act of 20 July 2018 reforming the prison administration](#) (*Loi du 20 juillet 2018 portant réforme de l'administration pénitentiaire*).

¹²² Luxembourg, Article 35(1) of the [Act of 20 July 2018 reforming the prison administration](#) (*Loi du 20 juillet 2018 portant réforme de l'administration pénitentiaire*).

National Preventive Mechanism. For ease of reference a list of links can be found via the [OPCAT Database](#).

Ombudsperson, External control service for places of deprivation of liberty (*Contrôle externe des lieux privés de liberté*) (2018). [The CSEE security unit](#) (*L'unité de sécurité du CSEE*). The report provides an overview of the CSEE facility that is designated for young delinquents. The central, main recommendation and the attention of the report regards placement of minors (under current law, but also according to the bill too) in a general detention facility with other detainees of age.

Ombudsperson, External control service for places of deprivation of liberty (*Service du contrôle externe des lieux privés de liberté*) (2015). [Closed infant and juvenile psychiatric units. Follow-up report](#) (*Les unités psychiatriques infanto-juvéniles fermées. Rapport de suivi*).

Ombudsperson, External control service for places of deprivation of liberty (*Service du contrôle externe des lieux privés de liberté*) (2014). [The State Socio-Educational Center. Follow-up report](#) (*Le Centre Socio-Educatif de l'Etat Rapport de suivi*).

7. Special measures in place to protect detainees from violence

- a) Are any special measures in place to protect detainees against violence from guards/prison staff, including sexual violence? (E.g.: Are there emergency call buttons? Do guards receive special training? Do detainees have access to a complaints mechanism?)

Several provisions of the amended Grand-Ducal Regulation of 24 March 1989 stipulate the duty of the penitentiary staff to abstain from any act that could cause harm to the detainees and the duty to rescue or protect the detainees in case of need¹²³.

The instruction of service DIS1 regarding the detainees as victims of violence states that the administrative staff has to report any incident where a detainee claims to have been a victim of violence. The administrative staff must also take into consideration and write a report for any incident that comes to their attention, involving any scars or traces of violence on a detainee^{124 125}.

Detention Centre: Any violence against the detainees is forbidden¹²⁶. No force is allowed, except to prevent a resident from harming him/herself or another resident or damaging an object. Any use of force must be restricted to the minimum necessary and be immediately reported to the Director.

¹²³ Luxembourg, Article 50 of [The Grand-Ducal Regulation of 24 March 1989 concerning the administration and internal regime of penitentiary establishments](#) (*Règlement grand-ducal du 24 mars 1989 concernant l'administration et le régime interne des établissements pénitentiaires*).

¹²⁴ Luxembourg, Instruction of service DIS21 (Instruction de service DIS21)

¹²⁵ Luxembourg, Ombudsperson, External control service for places of deprivation of liberty (*Service du contrôle externe des lieux privés de liberté*) (2010) [Report regarding the entry and health of the detainee within prison](#) (*Rapport relatif à l'entrée du détenu en milieu carcéral et à la santé en milieu carcéral*).

¹²⁶ Luxembourg, Article 22(3) of [the Act of 28 May 2009 regarding the creation and organisation of the Detention Centre](#) (*Loi du 28 mai 2009 portant création et organisation du Centre de rétention*).

CSEE: Any violence against the residents is forbidden within the CSEE¹²⁷. No force is allowed, except to prevent a resident from harming him/herself or another resident or damaging an object. Any use of force must be restricted to the minimum necessary and be immediately reported to the Director. In terms of security, the CSEE works with a "unique" method for Luxembourg, which is composed of a "duo" or teamwork between the security guards and the socio-educational staff. Inside the security unit, the guard does not circulate like a police officer to keep the detainees under surveillance but observes and interacts with the detainees. The presence of the guards is seen as part of the care taking of the children and is aimed at guaranteeing a clear framework for the co-living of the detainees and that must be respected by them. The security guards and the socio-educational staff collaborate and participate in the relations with the detainees. This is part of the philosophy of the security unit, which is to favour the treatment, the relations and the resocialization of the children¹²⁸.

b) Are any special measures in place to protect detainees against violence from other detainees, including sexual violence? (E.g.: Are detainees supervised by prison staff? Are there emergency call buttons? Do guards receive training in de-escalation? Do detainees have access to a complaints mechanism?)

Overall, the security and safety of the detainees is ensured by prison staff. Officers ensure to: (a) supervise inmates; b) ensure the smooth running of the detention; c) ensure respect for the physical integrity of detainees, staff and third parties present; (d) ensure the safety and security of the penitentiary centre to which they are assigned.
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Detainees who tend to exert violence and endanger the communal life are deemed unfit for communal life, are separated, and placed into solitary confinement. (Art. 29)¹³⁰

Detention Centre: In case of a dispute between the detainees, a mediation is offered to solve the dispute. If needed, a detainee can be moved to another unit in order to separate him/her from the person with whom he/she is in conflict. Any physical or strong verbal violence is punished with a disciplinary sanction, such as confinement to the cell for a duration of up to a maximum of 5 days¹³¹.

c) Are there any special measures in place to protect LGBTI detainees, who are particularly vulnerable to violence/sexual violence?

n.a.¹³²

d) Please indicate whether there are different standards applicable to different detention regimes (pre-trial and post-trial detention and for example, if applicable in your jurisdiction: open, semi-open, closed etc.).

¹²⁷ Luxembourg, [the Act of 29 August 2017 amending the Act of 16 June 2004 regarding the reorganisation of the State Socio- Educational Centre](#) (Loi du 29 août 2017 portant modification de la loi modifiée du 16 juin 2004 portant réorganisation du centre socio-éducatif de l'État).

¹²⁸ Luxembourg, Email exchange with the Director of the CSEE, 18 June 2018.

¹²⁹ Luxembourg, Article 42(1) of [the Act of 20 July 2018 reforming the prison administration](#) (Loi du 20 juillet 2018 portant réforme de l'administration pénitentiaire).

¹³⁰ Luxembourg, [the Act of 20 July 2018 reforming the prison administration](#) (Loi du 20 juillet 2018 portant réforme de l'administration pénitentiaire).

¹³¹ Luxembourg, Telephone interview with the Director of the Detention Centre, 30 May 2018.

¹³² Luxembourg, Note: no national legal references.

Except for the differences presented under section 7.a.) there are no further differences between the regimes.

- e) Please indicate any remedies available to detainees in case of a breach or violation of the standards addressed under 7. a) – d), including their respective legal basis.

General: All decisions taken regarding detainees by the directors of penitentiary centers in application of this law may be the subject of an administrative appeal before the director of the prison administration. This appeal must be lodged, under penalty of inadmissibility, in writing within eight working days (from the moment of the notification of the decision by the director of the detention facility).¹³³

All decisions taken regarding detainees by the director of the penitentiary administration in application of this law may be the subject of a judicial appeal before the penalty enforcement chamber. This appeal must be lodged in writing within eight working days (from the moment of the notification of the decision by the director of the detention facility). The judicial appeal lodged directly against a decision of a director of the penitentiary centre is inadmissible.¹³⁴

- f) Please, provide a link to the National Preventive Mechanism's reports from the reference period (1 May 2018 to 15 April 2021; if no report is available for this period, please provide links to the most recent one and the relevant CPT reports from the reference period) and whether there are any recommendations regarding this aspect (please provide the exact quotation in both, the national as well as in English language) These reports can be found on the web-page of the National Preventive Mechanism. For ease of reference a list of links can be found via the [OPCAT Database](#).

Ombudsperson, External control service for places of deprivation of liberty (*Service du contrôle externe des lieux privés de liberté*) (2014). [The deprivation of liberty of prisoners particularly vulnerable](#) (*La privation de liberté de détenus particulièrement vulnérables*).

The 2015 CPT report did not include any information on bad treatment by staff towards detainees, apart from several complaints of the female section (some women claimed to have been insulted by their guards). In addition, the CPT detected a problem of violence between detainees under the common regime, during the time when they circulate freely within their units.

Regarding LGBTI prisoners, the Ombudsperson stressed the fact that it is a category of detainees with a particular risk to be exposed to violence within prison. For this reason the Ombudsperson asked to interview all the concerned categories of detainees in order to draft her report¹³⁵. In practice, only a small number of detainees asked for an interview on this matter with the control team. It was mostly detainees who were not

¹³³ Luxembourg, Article 34 of the [Act of 20 July 2018 reforming the prison administration](#) (*Loi du 20 juillet 2018 portant réforme de l'administration pénitentiaire*).

¹³⁴ Luxembourg, Article 35(1) of the [Act of 20 July 2018 reforming the prison administration](#) (*Loi du 20 juillet 2018 portant réforme de l'administration pénitentiaire*).

¹³⁵ Luxembourg, Ombudsperson, External control service for places of deprivation of liberty (*Service du contrôle externe des lieux privés de liberté*) (2014). [The deprivation of liberty of prisoners particularly vulnerable](#) (*La privation de liberté de détenus particulièrement vulnérables*). para. 177, p. 72.

hiding their homosexuality. No detainee declared to be transgender within the CPL or the CPG.

In the report, the Ombudsperson holds that there are different categories within the LGBTI general category that need to be distinguished: those who declare openly their sexual orientation and those who make all efforts in order to hide it. Among detainees who declare their homosexual orientation openly, there are those who affirm that they have never suffered from reprisals or other trouble (neither by the co-detainees nor by the penitentiary staff). The report states that this category of detainees has an assertive personality and are well integrated within the prison.

Furthermore, the Ombudsman's report stresses a particular confusion of the detainees between paedophilia and homosexuality. The Ombudsman's control team suspects that the reason of this misunderstanding is the CPL's unit (Block A1) dedicated to receive detainees serving a sentence for paedophilia and having openly declared an homosexual orientation. According to the Ombudsman's report *"it is clear that this conflation is absolutely unacceptable and that efforts must be made in order to clarify the fundamental difference between paedophilia and homosexuality among the detainees."* (p.75).¹³⁶

In addition, the report demonstrates that the detainees of the same sex may have sexual relations between them, but this cannot offer evidence of an assimilation to homosexual orientation. Furthermore, the report notices that:

*"L'équipe de contrôle a été mise au courant que bon nombre de ces activités se passent par contrainte. En effet, certains détenus exigent des activités sexuelles de la part de codétenus en rétribution d'une protection, prétendue ou réelle, en contrepartie de services rendus, comme par exemple la rédaction de courriers ou encore en contrepartie d'achats à la cantine ou pour la mise à disposition de médicaments prohibés, voire de substances illicites. L'équipe de contrôle a pu recueillir des dépositions de plusieurs détenus qui permettent de conclure que les agressions sexuelles au moment de la prise d'une douche ne seraient pas rares. Ces détenus ont clairement insisté pour dire que ce phénomène concerne tous les détenus et qu'il n'est pas lié à l'orientation homosexuelle, ni de la part des auteurs, ni de la part des victimes. L'équipe de contrôle a aussi été informée que des activités sexuelles ont fait l'objet d'un paiement qui passe par des comptes extérieurs (p.75)"*¹³⁷

*"The control team has been informed that many of the sexual relation between detainees of the same sex are a result of enforcement or constraint. Actually, several detainees demand sexual relations from their co-detainees in exchange for protection, as for example the writing of letters, buying things at the canteen or for providing prohibits medicine such as illicit substances. The control team managed to acquire several detainees' testimonies which prove that sexual assaults when showering are not rare. These detainees insisted on the fact that this phenomenon is not related to the homosexual orientation of the authors nor the sexual orientation of the victims. The control team has also been informed that sexual relations among detainees included payment from external accounts" (p.75)*¹³⁸.

¹³⁶ Luxembourg, Ombudsperson, External control service for places of deprivation of liberty (*Service du contrôle externe des lieux privés de liberté*) (2014). [The deprivation of liberty of prisoners particularly vulnerable](#) (*La privation de liberté de détenus particulièrement vulnérables*).

¹³⁷ Luxembourg, Ombudsperson (2014). [Report regarding the deprivation of liberty of particularly vulnerable detainees](#) (*Rapport La privation de liberté de détenus particulièrement vulnérables du 15 Avril 2014, Service du contrôle externe des lieux privés de liberté, La médiatrice du Grand-Duché du Luxembourg*).

¹³⁸ Luxembourg, Ombudsperson (2014). [Report regarding the deprivation of liberty of particularly vulnerable detainees](#) (*Rapport La privation de liberté de détenus particulièrement vulnérables du 15 Avril 2014, Service du contrôle externe des lieux privés de liberté, La médiatrice du Grand-Duché du Luxembourg*).

8. Women in detention

a) Are there any national standards for conditions of detention of women in general? If so, what do they require?
Specific standards for female detainees exist e.g. regarding cells in detention facilities. If no specific standards for female detainees are presented in this chapter, the general standards apply without discrimination. Inside the periphery assigned for women detainees, the security personnel during the day and the supporting personnel are female.¹³⁹ Male staff has access to the women's quarters only in exceptional cases and only with authorization of the establishment. In this case, any guard must be accompanied by a guardian¹⁴⁰. Particular attention is paid to the situation of vulnerable persons, namely minors, unaccompanied minors, disabled persons, the elderly, pregnant women, single parents accompanied by minor children and persons who have been victims of torture, rape or other serious form of psychological, physical or sexual violence.¹⁴¹ Pregnant women, breastfeeding women, or women with children cannot be placed in solitary confinement cells unless it is in their best interest and the interest of their children.¹⁴²
b) Are there any national standards for holding and accommodating male and female detainees separate from each other? If so, what do they require?
<u>Detention centre</u>: Women are separated from male detainees, with the exception of them being married or partners.¹⁴³ Women and male detainees are located in different places of detention establishments; Women detainees are accommodated in Bloc F in Luxembourg detention facility in (CPL - <i>Centre pénitentiaire de Luxembourg</i>) and in a house in Givenich detention facility (CPG - <i>centre pénitentiaire de Givenich</i>).¹⁴⁴
c) Are there any national standards for special hygiene conditions and/or hygiene products for female detainees? If so, what do they require?
General rules apply without discrimination, if applicable; under the national law detainees are provided with toiletries necessary for their health and cleanliness free of

¹³⁹ Luxembourg, Article 37 of Luxembourg, [the Act of 20 July 2018 reforming the prison administration](#) (*Loi du 20 juillet 2018 portant réforme de l'administration pénitentiaire*).

¹⁴⁰ Luxembourg, Article 62 Luxembourg, [the Act of 20 July 2018 reforming the prison administration](#) (*Loi du 20 juillet 2018 portant réforme de l'administration pénitentiaire*).

¹⁴¹ Luxembourg, Article 7(2) of [the Act of 28 May 2009 regarding the creation and organisation of the Detention Centre](#) (*Loi du 28 mai 2009 portant création et organisation du Centre de rétention*).

¹⁴² Luxembourg, Article Luxembourg, [the Act of 20 July 2018 reforming the prison administration](#) (*Loi du 20 juillet 2018 portant réforme de l'administration pénitentiaire*).

¹⁴³ Luxembourg, Article 6(2) of [the Act of 28 May 2009 regarding the creation and organisation of the Detention Centre](#) (*Loi du 28 mai 2009 portant création et organisation du Centre de rétention*).

¹⁴⁴ Luxembourg, Ombudsperson, External control service for places of deprivation of liberty (*Service du contrôle externe des lieux privés de liberté*) (2017). [The situation of women in prison](#) (*La situation des femmes en prison*).

charge. All detainees are also provided with adequate time and facilities to stay clean on a daily basis.¹⁴⁵

- d) Are there any national standards for special healthcare for female detainees that respond to their specific needs, including i.e. pregnancy and post-natal treatment, and treatment/support of mother and child? If so, what do they require?

When a pregnancy is confirmed by a doctor, a woman receives a medical certificate with the delivery date.¹⁴⁶ In case of emergency, the director orders the transfer of the detainee to the nearest maternity hospital. Consultations and monitoring of pregnancy are taken in accordance with conditions outside the detention establishment and take place in maternity wards.¹⁴⁷

When a detained woman has given birth in the establishment, the director of the establishment declares the birth to the competent civil status officer. The place of birth is not mentioned in the birth certificate ¹⁴⁸.

At the CPL, gynaecological care is provided. The gynaecologist usually comes 4 to 5 times a year, either at the request of the patient, or the general practitioner or the infirmary.¹⁴⁹

At the CPG, female inmates have the option of seeing a gynaecologist of their choice outside of the CPG.¹⁵⁰

- e) Are there any national standards on pregnant detainees in terms of special prison cells for pregnant detainees and/or special facilities for female detainees with babies or young children? If so, what do they require?

If a child cannot be separated from the mother, the woman cannot be refused being apart from her child. Children are put with the woman in the cell; but they have a separate bed.¹⁵¹

- f) Please indicate whether there are different standards applicable to different detention regimes (pre-trial and post-trial detention and for example, if applicable in your jurisdiction: open, semi-open, closed etc.).

¹⁴⁵ Luxembourg, Article 270 of Luxembourg, [the Act of 20 July 2018 reforming the prison administration](#) (*Loi du 20 juillet 2018 portant réforme de l'administration pénitentiaire*).

¹⁴⁶ Luxembourg, Article 130 of [the Grand-Ducal Regulation of 24 March 1989 concerning the administration and internal regime of penitentiary establishments](#) (*Règlement grand-ducal du 24 mars 1989 concernant l'administration et le régime interne des établissements pénitentiaires*).

¹⁴⁷ Luxembourg, Ombudsperson, External control service for places of deprivation of liberty (*Service du contrôle externe des lieux privés de liberté*) (2017). [The situation of women in prison](#) (*La situation des femmes en prison*).

¹⁴⁸ Luxembourg, Article 130 of [the Grand-Ducal Regulation of 24 March 1989 concerning the administration and internal regime of penitentiary establishments](#) (*Règlement grand-ducal du 24 mars 1989 concernant l'administration et le régime interne des établissements pénitentiaires*).

¹⁴⁹ Luxembourg, Ombudsperson, External control service for places of deprivation of liberty (*Service du contrôle externe des lieux privés de liberté*) (2017). [The situation of women in prison](#) (*La situation des femmes en prison*).

¹⁵⁰ Luxembourg, Ombudsperson, External control service for places of deprivation of liberty (*Service du contrôle externe des lieux privés de liberté*) (2017). [The situation of women in prison](#) (*La situation des femmes en prison*).

¹⁵¹ Luxembourg, Article 142 of [the Grand-Ducal Regulation of 24 March 1989 concerning the administration and internal regime of penitentiary establishments](#) (*Règlement grand-ducal du 24 mars 1989 concernant l'administration et le régime interne des établissements pénitentiaires*).

N.a.

- g) Please indicate any remedies available to female detainees in case of a breach or violation of the standards addressed under 8. a) – f), including their respective legal basis.

General: All decisions taken regarding detainees by the directors of penitentiary centers in application of this law may be the subject of an administrative appeal before the director of the prison administration. This appeal must be lodged, under penalty of inadmissibility, in writing within eight working days (from the moment of the notification of the decision by the director of the detention facility).¹⁵²

All decisions taken regarding detainees by the director of the penitentiary administration in application of this law may be the subject of a judicial appeal before the penalty enforcement chamber. This appeal must be lodged in writing within eight working days (from the moment of the notification of the decision by the director of the detention facility). The judicial appeal lodged directly against a decision of a director of the penitentiary centre is inadmissible.¹⁵³

- h) Please, provide a link to the National Preventive Mechanism's reports from the reference period (1 May 2018 to 15 April 2021, if no report is available for this period, please provide links to the most recent one and the relevant CPT reports from the reference period) and whether there are any recommendations regarding this aspect (please provide the exact quotation in both, the national as well as in English language) These reports can be found on the webpage of the National Preventive Mechanism. For ease of reference a list of links can be found via the [OPCAT Database](#).

Luxembourg, Ombudsperson, External control service for places of deprivation of liberty (*Service du contrôle externe des lieux privés de liberté*) (2017). [The situation of women in prison](#) (*La situation des femmes en prison*).

Women are placed in one bloc in detention, disregarding the gravity of the crime. The Ombudsperson suggests find a remedy to that. « *Le Médiateur recommande toutefois de modifier l'organisation de la détention des femmes à partir du moment où le CPU sera en fonctionnement et que l'espace nécessaire se sera libéré au CPL. L'affectation doit permettre de séparer utilement les prévenues et les condamnées, mais aussi les femmes qui sont en conflit* » (p.12)¹⁵⁴

However, the Mediator recommends that the organization of the women detention be changed once the CPU is operational and necessary space becomes available at the CPL. The assignment must make it possible to not only separate the accused and the convicted, but also the women who are in conflict.

There is a concern regarding providing glasses to women. The Ombudsperson notes that detainees have to wait for glasses, especially in situations when they did not initially

¹⁵² Luxembourg, Article 34 of the [Act of 20 July 2018 reforming the prison administration](#) (*Loi du 20 juillet 2018 portant réforme de l'administration pénitentiaire*).

¹⁵³ Luxembourg, Article 35(1) of the [Act of 20 July 2018 reforming the prison administration](#) (*Loi du 20 juillet 2018 portant réforme de l'administration pénitentiaire*).

¹⁵⁴ Luxembourg, Ombudsperson, External control service for places of deprivation of liberty (*Service du contrôle externe des lieux privés de liberté*) (2017). [The situation of women in prison](#) (*La situation des femmes en prison*).

have them before detention. In this case, the Ombudsperson must criticize the fact that detainees are forced to wait to obtain an appointment with an ophthalmologist, or even to obtain the necessary glasses. The Mediator recommends that the medical service be vigilant in this regard and organise the necessary consultations to enable detainees to obtain the necessary glasses as soon as possible.¹⁵⁵

“Cependant, il a été informé, au cours de ces visites, mais également déjà dans le passé, qu’il arrive que des détenus soient en attente de lunettes, que la personne n’avait pas sur elle au moment de son entrée au CPL et où elle n’a pas la possibilité de se les faire amener. Dans ce cas de figure, le Médiateur doit critiquer le fait que les détenus soient obligés d’attendre pour obtenir un rendez-vous chez l’ophtalmologue, voire pour obtenir les lunettes nécessaires. Le Médiateur recommande au service médical d’être vigilant à cet aspect et d’organiser les consultations qui s’imposent pour permettre aux détenus d’obtenir les lunettes nécessaires dans les plus brefs délais ».

However, the Mediator was informed, during these visits, but also before too, that it happens those detainees wait for glasses prescriptions. That regards new glasses to persons who did not have on them any before coming to the detention facility and thus did not have the possibility of having them brought. In this case, the Ombudsperson criticizes the fact that detainees are forced to wait to obtain an appointment with an ophthalmologist, or even to obtain the necessary glasses. The Mediator recommends that the medical service be vigilant in this regard and organize the necessary consultations to enable detainees to obtain the necessary glasses as soon as possible.

“Women generally work in the workshops of Block F, reserved exclusively for women. Despite a somewhat traditionalist connotation of the responsibilities attributed to women (ironing, knitting and assembly work). The Mediator recommends promoting and developing as far as possible the initiative to allow women to work together with men at the various workshops. This argument can of course also be taken the other way. There would be nothing against allowing certain male detainees to work in the workshops in Block F.”¹⁵⁶

«Les femmes travaillent généralement aux ateliers du bloc F, réservés exclusivement aux femmes. Malgré une connotation quelque peu traditionnaliste des charges attribuées aux femmes (travaux de repassage, tricot et assemblage). Le Médiateur recommande de promouvoir et de développer dans la mesure du possible l’initiative de permettre aux femmes de travailler ensemble avec les hommes aux différents ateliers. Cette argumentation peut évidemment également être menée dans l’autre sens. Rien ne s’opposerait à ce que l’on autorise certains hommes détenus à travailler aux ateliers du bloc F ».

« il n’existe pas d’offre thérapeutique de la part du service de médecine psychiatrique pour les femmes incarcérées. Les femmes ne peuvent en effet pas être admises à l’unité P2 qui prend en charge les hommes souffrant d’une pathologie psychiatrique nécessitant un suivi plus conséquent. Ceci les exclut aussi automatiquement de la possibilité de participer à des séances d’ergothérapie qui sont organisées pour les hommes détenus au P2. Le Médiateur estime que la différence de sexe ne peut pas légitimer cette différence de traitement. Il invite les responsables de l’unité psychiatrique à analyser la possibilité d’instaurer la mixité, soit au bloc P2, soit, du moins, pendant les séances

¹⁵⁵ Luxembourg, Ombudsperson, External control service for places of deprivation of liberty (*Service du contrôle externe des lieux privés de liberté*) (2017). [The situation of women in prison](#) (*La situation des femmes en prison*).

¹⁵⁶ Luxembourg, Ombudsperson, External control service for places of deprivation of liberty (*Service du contrôle externe des lieux privés de liberté*) (2017). [The situation of women in prison](#) (*La situation des femmes en prison*).

*d'ergothérapie. Si la mixité est jugée irréalisable, il recommande d'élargir de manière conséquente l'offre thérapeutique des femmes. » p.19).*¹⁵⁷

"There is no therapeutic offer from the psychiatric medicine service for imprisoned women. Women cannot be admitted to the P2 unit, which takes care of men suffering from a psychiatric pathology requiring more follow-ups. This also automatically excludes them from the possibility of participating in occupational therapy sessions which are organized for men in P2. The Mediator considers that the difference in sex cannot legitimize this difference in treatment. The Ombudsperson thus invites those in charge of the psychiatric unit to analyse the possibility of introducing co-education, either in block P2 or, at least, during occupational therapy sessions. If co-education is deemed impractical, the Ombudsperson recommends significantly expanding the therapeutic offer for women".

9. Nutrition

a) Are there any national standards with regard to nutrition in detention in general? If so, what do they require?

Detainees receive meals of sufficient nutritional value to maintain their health and strength. Religious dietary preferences are considered as much as possible. Every detainee is further provided with drinking water that he/she needs.¹⁵⁸

b) Are there any national standards with regard to frequency and regularity of provision of meals (warm and cold)? If so, what do they require?

Food is provided three times a day.¹⁵⁹ Additionally, unless under special sanctions, detainees can buy food in the canteen.¹⁶⁰ On four occasions (national holidays, like, i.e. Christmas, National Days, etc.) detainees can buy in an extraordinary canteen, that includes a list of special goods for additional purchase.¹⁶¹

c) Are there any national standards with regard to healthy food, special diets or dietary restrictions? If so, what needs to be provided to detainees?

¹⁵⁷ Luxembourg, Ombudsperson, External control service for places of deprivation of liberty (*Service du contrôle externe des lieux privés de liberté*) (2017). [The situation of women in prison](#) (*La situation des femmes en prison*).

¹⁵⁸ Luxembourg, Article 251 of [the Grand-Ducal Regulation of 24 March 1989 concerning the administration and internal regime of penitentiary establishments](#) (*Règlement grand-ducal du 24 mars 1989 concernant l'administration et le régime interne des établissements pénitentiaires*).

¹⁵⁹ Luxembourg, Article 251 of [the Grand-Ducal Regulation of 24 March 1989 concerning the administration and internal regime of penitentiary establishments](#) (*Règlement grand-ducal du 24 mars 1989 concernant l'administration et le régime interne des établissements pénitentiaires*).

¹⁶⁰ Luxembourg, Article 253-255 of [the Grand-Ducal Regulation of 24 March 1989 concerning the administration and internal regime of penitentiary establishments](#) (*Règlement grand-ducal du 24 mars 1989 concernant l'administration et le régime interne des établissements pénitentiaires*).

¹⁶¹ Luxembourg, Article 254, 255 and 257 of [the Grand-Ducal Regulation of 24 March 1989 concerning the administration and internal regime of penitentiary establishments](#) (*Règlement grand-ducal du 24 mars 1989 concernant l'administration et le régime interne des établissements pénitentiaires*).

Sick detainees with a prescription, receive special dietary food ¹⁶². Supplement food may be provided to the sick detainees who are required to perform special work and to detainees performing heavy work¹⁶³.

- d) Please indicate whether there are different standards applicable to different detention regimes (pre-trial and post-trial detention and for example, if applicable in your jurisdiction: open, semi-open, closed etc.).

Detention centre: Food is distributed in the common room. If the detainee's behavior is inappropriate, the meal could be distributed in his/her room. Special food is given to people following a diet on medical prescription.¹⁶⁴ Religious convictions are considered in preparing food for the detainees.¹⁶⁵ There is a canteen with supplementary goods that detainees can buy.¹⁶⁶

In UNISEC kitchen is shared with the SCEE centre in Dreiborn and then delivered to the centre. Lunchtime food varies. However, evening food is cold, consists of bread, cheese, meat, and leftovers from the day. There are sandwiches. Regarding warm dishes, there is only a possibility of having special dishes that young people compose themselves during cooking activities within the establishment¹⁶⁷.

- e) Please indicate any remedies available to detainees in case of a breach or violation of the standards addressed under 9. a) – d), including their respective legal basis.

General: All decisions taken with regard to detainees by the directors of penitentiary centers in application of this law may be the subject of an administrative appeal before the director of the prison administration. This appeal must be lodged, under penalty of inadmissibility, in writing within eight working days (from the moment of the notification of the decision by the director of the detention facility).¹⁶⁸

All decisions taken with regard to detainees by the director of the penitentiary administration in application of this law may be the subject of a judicial appeal before the penalty enforcement chamber. This appeal must be lodged in writing within eight working days (from the moment of the notification of the decision by the director of the

¹⁶² Luxembourg, Article 252 of [the Grand-Ducal Regulation of 24 March 1989 concerning the administration and internal regime of penitentiary establishments](#) (Règlement grand-ducal du 24 mars 1989 concernant l'administration et le régime interne des établissements pénitentiaires).

¹⁶³ Luxembourg, Article 252 of [the Grand-Ducal Regulation of 24 March 1989 concerning the administration and internal regime of penitentiary establishments](#) (Règlement grand-ducal du 24 mars 1989 concernant l'administration et le régime interne des établissements pénitentiaires).

¹⁶⁴ Luxembourg, Article 16 of [the Grand-Ducal Regulation of August 17, 2011 setting the conditions and practical modalities of the detention regime of the detention center](#) (Règlement grand-ducal du 17 août 2011 fixant les conditions et les modalités pratiques du régime de rétention du Centre de rétention)

¹⁶⁵ Luxembourg, Article 16 of [the Grand-Ducal Regulation of August 17, 2011 setting the conditions and practical modalities of the detention regime of the detention center](#) (Règlement grand-ducal du 17 août 2011 fixant les conditions et les modalités pratiques du régime de rétention du Centre de rétention).

¹⁶⁶ Luxembourg, Article 17 of [the Grand-Ducal Regulation of August 17, 2011 setting the conditions and practical modalities of the detention regime of the detention center](#) (Règlement grand-ducal du 17 août 2011 fixant les conditions et les modalités pratiques du régime de rétention du Centre de rétention).

¹⁶⁷ Ombudsperson, External control service for places of deprivation of liberty (Contrôle externe des lieux privés de liberté) (2018). [The CSEE security unit](#) (L'unité de sécurité du CSEE).

¹⁶⁸ Luxembourg, Article 34 of the [Act of 20 July 2018 reforming the prison administration](#) (Loi du 20 juillet 2018 portant réforme de l'administration pénitentiaire).

detention facility). The judicial appeal lodged directly against a decision of a director of the penitentiary centre is inadmissible.¹⁶⁹

- f) Please, provide a link to the National Preventive Mechanism's reports from the reference period (1 May 2018 to 15 April 2021, if no report is available for this period, please provide links to the most recent one and the relevant CPT reports from the reference period) and whether there are any recommendations regarding these aspect (please provide the exact quotation in both, the national as well as in English language) These reports can be found on the web-page of the National Preventive Mechanism. For ease of reference a list of links can be found via the [OPCAT Database](#).

Luxembourg, Ombudsperson, External control service for places of deprivation of liberty (*Service du contrôle externe des lieux privés de liberté*) (2014) [Report regarding the entry and health of the detainee within prison](#) (*Rapport relatif à l'entrée du détenu en milieu carcéral et à la santé en milieu carcéral*). The report does not have major critique or recommendations regarding nutrition and food.

Council of Europe (2015). [Report to the Government of the Grand Duchy of Luxembourg on the visit to Luxembourg by the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment \(CPT\)](#) (*Rapport au Gouvernement du Grand-Duché de Luxembourg relatif à la visite effectuée au Luxembourg par le Comité européen pour la prévention de la torture et des peines ou traitements inhumains ou dégradants* (CPT). There is no mentioning of cases regarding food dietary options.

External control service for places of deprivation of liberty (*Service du contrôle externe des lieux privés de liberté*) (2014). [The State Socio-Educational Center. Follow-up report](#) (*Le Centre Socio-Educatif de l'Etat Rapport de suivi*)

In 2014 the Ombudspersons' external committee criticized the cold meals in social educational centres for minors. The issue was resolved with a special approach: during cooking classes, minors could learn to cook and prepare food that they would eat in the evening.

¹⁶⁹ Luxembourg, Article 35(1) of the [Act of 20 July 2018 reforming the prison administration](#) (*Loi du 20 juillet 2018 portant réforme de l'administration pénitentiaire*).

Part II: National jurisprudence

No relevant case law could be identified.