

# *Council of Europe contribution for the 29<sup>th</sup> UPR session (Jan-Feb 2018) regarding Luxembourg*

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## **Prevention of torture (CPT)**

*The 'European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment' organises country visits in order to visit places of detention to assess how persons deprived of their liberty are treated. After each visit, the CPT sends a detailed report to the State concerned. This report includes the CPT's findings, and its recommendations, comments and requests for information.*

[Executive summary of the report on the CPT's visit to Luxembourg from 28 January to 2 February 2015](#) (French only)

[Report on the CPT's visit to Luxembourg from 28 January to 2 February 2015](#) (French only)

[Government response](#) (French only)

## **Council of Europe Commissioner for Human Rights**

*The Commissioner for Human Rights is an independent and impartial non-judicial institution established by Council of Europe to promote awareness of and respect for human rights in the 47 Council of Europe member States.*

On 6 February 2017, ahead of the Luxembourg Chamber of Deputies' vote on a bill extending the maximum period for the detention of migrant children and their families from 72 hours to 7 days, Commissioner Muižnieks published a [statement](#) calling on Luxembourg to reject the proposed amendments. The Commissioner reiterated his firm position that the detention of a migrant child, even if used as a last resort and for a short period, was never in the child's best interest and risked causing harm to their mental well-being. Urging Luxembourg's authorities to respect the country's international obligations while preserving the dignity and rights of migrants, he encouraged them to develop alternatives to the detention of minors and ultimately to put an end to the practice. In a [communiqué](#) published on the following day by Luxembourg's Minister of Foreign Affairs, Immigration and Asylum, Mr Jean Asselborn, took note of the Commissioner's concerns. Stressing Luxembourg's commitment to international standards of protection of refugees and migrants, the Minister explained some of the reasons behind the proposed legislation and pledged to limit the detention of migrant children and their families to the bare minimum. While the Chamber of Deputies has ultimately passed the law on 8 February, it nevertheless also adopted a [motion](#) requiring the Luxembourg government to draw up and present a review of the implementation of the new practice, including an assessment of the conditions at the holding centre for foreigners located in Luxembourg's Findel airport, as well as the duration and number of cases of detention of migrant children and their families.

On 4 - 7 July 2017, Commissioner Muižnieks will carry out a country visit to Luxembourg. (The Commissioner's last visit in the country was in March 2012). The visit will focus mainly on issues pertaining to migration, asylum and integration.

## **Fight against racism and intolerance (ECRI)**

*The European Commission against Racism and Intolerance (ECRI) is a human rights body of the Council of Europe, composed of independent experts, which monitors problems of racism, xenophobia, antisemitism, intolerance and discrimination on grounds such as “race”, national/ethnic origin, colour, citizenship, religion and language. It prepares reports and issues recommendations to member States, in which its findings, along with recommendations are published. These reports are drawn up after a contact visit to the country in question and a confidential dialogue with the national authorities. The country monitoring takes place in five-year cycles. As part of the fourth round of ECRI’s monitoring work, a new process of interim follow-up has been introduced with respect to a small number of specific recommendations made in each of ECRI’s country reports.*

ECRI adopted its [fifth report on Luxembourg](#) on 6 December 2016.

## **Protection of minorities**

### **Framework Convention for the Protection of National Minorities**

*The monitoring procedure for this convention requires each state party to submit a report within one year following the entry into force of the Framework Convention and additional reports every five subsequent years. State reports are examined by the [Advisory Committee](#), a body composed of 18 independent experts responsible for adopting country-specific opinions. These opinions, on which States Parties have an opportunity to comment, are meant to advise the Committee of Ministers in the preparation of its resolutions, containing conclusions and recommendations to the State concerned.*

### **European Charter for Regional or Minority Languages**

*The [Charter’s monitoring procedure](#) is based on state reports, as each State Party is required to present its first report within a year of the entry into force of the Charter with respect to the Party concerned and subsequent reports at three-yearly intervals. A committee of independent experts then examines the state’s periodical report and addresses an evaluation report to the Committee of Ministers, including proposals for recommendations.*

Luxembourg submitted its 4<sup>th</sup> periodical [report](#) in February 2015. The Committee of Experts adopted its [evaluation report](#) on Luxembourg in June 2015.

In light of the particular situation whereby no regional or minority languages are spoken in Luxembourg, the Committee of Experts will not propose to the Committee of Ministers to forward any recommendations to the Luxembourgish authorities. The Committee of Experts commends the Luxembourgish authorities for the commitment and European solidarity they have demonstrated by ratifying the Charter and expresses its appreciation of the valuable contribution it has made to the protection and promotion of regional or minority languages in Europe.

## Action against trafficking in human beings (GRETA)

The Council of Europe Convention on Action against Trafficking in Human Beings was adopted by the Committee of Ministers of the Council of Europe on 3 May 2005, following a series of other initiatives by the Council of Europe in the field of combating trafficking in human beings. The Convention entered into force on 1 February 2008, following its 10th ratification. While building on existing international instruments, the Convention goes beyond the minimum standards agreed upon in them and strengthens the protection afforded to victims.

The Convention has a comprehensive scope of application, encompassing all forms of trafficking (whether national or transnational, linked or not linked to organised crime) and taking in all persons who are victims of trafficking (women, men or children). The forms of exploitation covered by the Convention are, at a minimum, sexual exploitation, forced labour or services, slavery or practices similar to slavery, servitude and the removal of organs.

The main added value of the Convention is its human rights perspective and focus on victim protection. Its Preamble defines trafficking in human beings as a violation of human rights and an offence to the dignity and integrity of the human being. The Convention provides for a series of rights for victims of trafficking, in particular the right to be identified as a victim, to be protected and assisted, to be given a recovery and reflection period of at least 30 days, to be granted a renewable residence permit, and to receive compensation for the damages suffered.

Another important added value of the Convention is the monitoring system set up to supervise the implementation of the obligations contained in it, which consists of two pillars: the Group of Experts on Action against Trafficking in Human Beings (GRETA) and the Committee of the Parties.

The Convention is not restricted to Council of Europe member states; non-members states and the European Union also have the possibility of becoming Party to the Convention.

Luxembourg <http://www.coe.int/en/web/anti-human-trafficking/luxembourg>

A 2<sup>nd</sup> round evaluation visit to LUX will take place in October.

[GRETA's 1<sup>st</sup> round evaluation report and Government's comments](#)  
[Committee of the Parties' recommendations – 1<sup>st</sup> evaluation round](#)  
[Government's reply to Committee of the Parties' 1<sup>st</sup> round recommendations](#)

## Preventing and combating violence against women and domestic violence

The Council of Europe Convention on preventing and Combating violence against women and domestic violence ([Istanbul Convention](#), CETS No. 210) provides for two types of monitoring procedures: a country-by-country evaluation procedure and a special inquiry procedure in exceptional cases where action is required to prevent a serious, massive or persistent pattern of any acts of violence covered by the Convention. [GREVIO](#), the Group of Experts on Action against violence against women and domestic violence, is the independent body responsible for monitoring the implementation of CETS No. 210. GREVIO launched its first evaluation procedure in spring 2016, after adopting a questionnaire on legislative and other measures giving effect to the Istanbul Convention.

Luxembourg signed the Istanbul Convention on 11 May 2011.

## ***Fight against corruption (GRECO)***

The 'Group of States against Corruption' ([GRECO](#)) monitors all its members through a "horizontal" evaluation procedure within thematic evaluation rounds. The evaluation reports contain recommendations aimed at furthering the necessary legislative, institutional and practical reforms. Subsequently, the implementation of those recommendations is examined in the framework of a "compliance procedure", assessing whether they have been implemented satisfactorily, partly or have not been implemented 18 months after the adoption of the evaluation report.

Fourth Evaluation Round: "Corruption prevention in respect of members of parliament, judges and prosecutors".

GRECO's Fourth Round Compliance Report on Luxembourg will be discussed by GRECO at its October 2017 Plenary meeting.

## ***Execution of judgments and decisions of the European Court of Human Rights***

### ***Statistical data***

At 31 December 2016, there was 1 case against Luxembourg pending before the Committee of Ministers for supervision of its execution (1 case at 31.12.2015), which is a "leading case" (1 at 31.12.2015), i.e. raising a new structural / general problem and requiring the adoption of general measures.

In 2016, the CM was not seized by any new cases (1 new case in 2015) and the sums awarded in 2016 as just satisfaction amounted to 0 euro.

In 2016, no cases were closed by the adoption of a Final Resolution (none in 2015).

### ***Main cases /groups of cases pending before the Committee of Ministers for supervision of execution under the enhanced and standard procedures***

The main case pending execution before the Committee of Ministers under the standard procedure covers the issue of fairness of criminal proceedings ([A.T.](#)).

### ***Fairness of judicial proceedings – criminal charges***

[A.T.](#) , application No. 30460/13, judgment final on 14/09/2015, standard supervision

***Inability to communicate with a lawyer during police questioning following his arrest under a European Arrest Warrant, and prior to first hearing before the investigating judge.***

## ***Social and Economic Rights (ECSR)***

The European Committee of Social Rights (ECSR) monitors compliance with the [European Social Charter](#) under two procedures: the national periodic reporting system and the collective complaints procedure. Following a decision taken by the Committee of Ministers in 2006, the provisions of the Charter have been divided into four

*thematic groups. States present a report on the provisions relating to one of the four thematic groups on an annual basis. Consequently each provision of the Charter is reported on once every four years.*

### Luxembourg and the European Social Charter

#### **Venice Commission**

*The European Commission for Democracy through Law (Venice Commission) is the Council of Europe's advisory body on constitutional matters. It provides States and international organisations working with it (EU, OSCE/ODIHR) with legal advice in the form of opinions.*