

Women in Prison: Luxembourg

Analysis from the National Preventive
Mechanism

| August 2024



Luxembourg



UNCAT ratification
29 september 1987

OPCAT ratification
19 May 2010

National Preventive Mechanism (NPM)

Ombudsman, Contrôle externe des lieux privatifs de liberté (CELPL) (External Monitoring of Places of Deprivation of Liberty)

NPM legal framework
Act approving the OPCAT (11 April 2010)

NPM operationalisation
Since July 2010

NPM structure
Ombudsman Service, connected to the Chamber of Deputies

NPM composition
4 people (3 women): Ombudsman (woman), and three controllers (1 man, two women)

I. Facts and Figures

Prison population	Women in prison : Characteristics	Prisons for women	Prison staff
Total prison population	Femmes étrangères	Number of facilities for women	Prison staff (total)
643	22	2	845
Women in prison	Women with children in prison	Number of facilities exclusively for women	Women prison staff
38	0	0	257
Women in pre-trial detention	Women with disabilities	Number of mixed facilities with special units for women ¹	
15	0	2	
Women sentenced			
23 ²			
Foreign women			
22			

Source: Prison Administration Department, July 2023

¹ In Luxembourg, there are two prisons that can accommodate women: the Centre Pénitentiaire de Luxembourg and the Centre Pénitentiaire semi-ouvert de Givenich.

² 5 women detained at the Givenich semi-open prison.

II. Recommendations

Contact with the outside world

- + CELPL recommends a significant increase in the number of staff coordinating and accompanying the Treffpunkt³ service, so that they can make visits at least every 2 weeks, if not every week for very young children.
- + CELPL recommends that the management of the Luxembourg Prison Facilities authorise visits between detainees so that they can receive visits from their child together, regardless of whether the parents are married or in a partnership.

Life in prison: regime and activities

- + CELPL recommends that the management of the Luxembourg Prison Facilities promote and develop the initiative of allowing women to work together with men in the various workshops in order to diversify the range of work available to women. Of course, this argument can also be made the other way around. There is no reason why some men detainees should not be allowed to work in the women's block workshops.

Women with children in prison

- + CELPL recommends that the management of the Luxembourg Prison Facilities establish, in consultation with the management of their medical service, guidelines to be applied when a mother is incarcerated with her child and the child falls ill.

Pregnant women

- + Although this is a rare situation, CELPL recommends that the police authorities clarify the procedure in the event of childbirth by an incarcerated woman by including at least the following elements in the service instructions:
 - In the event of childbirth by a detainee, the Grand-Ducal police must stay outside of the delivery room, unless otherwise requested by the medical staff.
 - If the presence of a police officer is deemed essential to guarantee public safety, it is imperative that the officer (preferably just one in the delivery room, although a second may be present outside the door) is female.
 - The Ombudsman recommends conducting a case-by-case analysis as soon as it becomes known that there is a pregnant woman in the Luxembourg Prison Facilities.
 - They should not be wearing handcuffs or foot shackles, nor should the mother be tied to the delivery bed in any way.
 - If the father of the unborn child is also a detainee, the situation must be analysed in advance, on a case-by-case basis, to determine the necessary means of supervision or restraint. The father must be allowed to accompany his partner during childbirth and to hold his newborn baby in his arms. The father must be guaranteed a certain amount of time to welcome their new baby.

³ In 2017, the Treffpunkt service consisted of 2.5 FTE coordinating staff and around 18 *freelance* guides.

III. Detention Issues

Separation

One of the problems the women's block faces in terms of its constellation is the fact that the incarcerated women generally serve fairly short (< 1 year) or very long (> 20 years) sentences.

This means that there is a great deal of fluctuation in one part of the block's population and that the other part of the population, on the other hand, is forced to live together for a prolonged period of time. As the women's block is limited in its capacity, there is no possibility of effectively separating detainees when necessary, which causes of a lot of tension.

Body searches

The law of 20 July 2018 on the reform of prison administration contains provisions relating to strip searches of detainees and visitors.

It makes a distinction between simple strip searches (a frisk search or performed using electronic detection equipment), full strip searches (visual inspection of the naked surface of the body, the inside of the mouth and ears, the armpits and between the legs of the detainee) and intimate searches (inspection of body cavities or openings other than those inspected as part of a full strip search, performed by a doctor other than the attending physician).

The law specifies the following principles:

- Full body and intimate strip searches are performed out of sight of third parties ;
- A detainee's complete clothing can only be removed during these strip searches in a two stage-process;
- Simple strip searches are performed by two prison staff members, of whom at least one must be of the same sex as the detainee;
- Full and intimate strip searches are performed by at least two prison staff members of the same sex as the detainee;
- Staff members who are required to perform strip searches must undergo special training in this area⁴.

In addition to these clear and relevant provisions, article 38(6) of the law refers to a Grand-Ducal regulation to determine the procedures for performing strip searches. Even 5 years after the law came into force, this Grand-Ducal regulation does not exist, which creates the risk of arbitrariness and legal uncertainty in an area as sensitive as strip searches.

Solitary confinement, isolation

Article 29 of the Act of 20 July 2018 regulates solitary confinement, which consists of separating the detainees concerned from other detainees and confining them to their cells during the day and night, without prejudice to a programme of adapted activities.

Minors and women who are pregnant, breastfeeding or accompanied by their young children may not be placed in solitary confinement, unless it is in their manifest interest or they are, due to their personality or behaviour, unsuitable for community living.

⁴ Article 38 Act of 20 July 2018 reforming the prison service:
<https://data.legilux.public.lu/filestore/eli/etat/leg/loi/2018/07/20/a626/jo/fr/html/eli-etat-leg-loi-2018-07-20-a626-jo-fr-html.html>

A detainee who presents an increased risk of escape, of endangering himself or others through physical or mental violence, or of causing serious disturbance to the security, safety and smooth running of the prison is deemed unfit for community living.

Article 30 of the same law also provides for the possibility of placing detainees in an individual cell, a specially equipped security cell to prevent acts of vandalism, aggression and self-aggression, or in an observation cell with permanent video surveillance of the detainee.

These decisions can be made by the prison Director when a detainee displays behaviour that is likely to endanger their life or physical integrity, or that of other persons, or to seriously and imminently compromise the good order and security of the prison.

Each detainee must be seen without delay either by a doctor or by a nurse who reports to the doctor who must see the detainee within twenty-four hours of their placement.

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

Detainees may appeal to the Director of the Prison Administration (DPA) against all decisions taken by the Prison Management. Appeals against decisions by the DPA may be lodged with the Chamber for the Enforcement of Sentences.

They can therefore be placed in prison for their own safety. It should be noted that when a woman is incarcerated with her child at the Luxembourg Prison Facilities, she is isolated from the other detainees. In the past, this has already led to a mother and child being isolated for 10 months. The cells being used are generally in good condition, but they can be a little too hot in summer.

Use of means of restraint

The restraint methods available, as well as the conditions under which they can be applied, are governed by articles 42 to 45 of the law of 20 July 2018 on the reform of prison administration⁵. The use of restraint is recorded.

Access to mental health care

There is no difference in treatment between men and women in terms of mental health care in terms of entry examinations or medical histories. However, women cannot be placed in the psychiatric unit at the Luxembourg Prison Facilities and do not have access to occupational therapy, which is offered to men detainees in certain circumstances⁶.

Contact with the outside world

CELPL believes that everyone has a right to family life and that parents should be allowed regular visits from their children, if they so wish and if there are no obvious contraindications.

Children's visits are arranged through an external service called Treffpunkt. It intervenes when both parents are incarcerated or when the non-incarcerated parent does not wish to visit the incarcerated parent with the child. For members of the Treffpunkt service to agree to organise visits with the child, the children must be able to walk. The reason for this rule is that the Treffpunkt escorts do not want to force a small child to walk from outside the prison to the visiting room in the arms of a stranger. They

⁵ <https://data.legilux.public.lu/filestore/eli/etat/leg/loi/2018/07/20/a626/jo/fr/html/eli-etat-leg-loi-2018-07-20-a626-jo-fr-html.html>

⁶ On this subject, see the CELPL report on the situation of women in prison, pp. 18 et seq.

argue that it would be less intrusive and less frightening for a small child if they are walking by themselves, holding the hand of a stranger. Visits organised by the Treffpunkt service at the Luxembourg Prison Facilities only take place once a month for 1 or sometimes 2 hours, regardless of the child's age.

Life in prison: regime and activities

The jobs currently assigned to women detainees is limited to ironing, knitting and occasionally assembly work. Despite this somewhat traditionalist connotation of the duties, it should nevertheless be noted in a positive light that the women's block has a maximum work capacity for 20 to 22 women. In addition, 3 women are assigned to interior chores. The number of workstations available therefore allows the vast majority of women detainees to work.

IV. Women in Special Situations of Vulnerability

Women with children in prison

The CELPL was faced with the situation of a mother incarcerated with her infant child. When the child fell ill, the medical service at the Luxembourg Prison Facilities was reluctant to take care of the baby because of liability issues. The child developed a high fever during the night and had to wait for the doctor to arrive the next morning before finally being taken to a paediatrician on the outside.

V. Other relevant NPM information on women in prison

- + CELPL, Report on the situation of women in prison, 2017
- + CELPL, Annual reports

This report is part of the NPM's global report on women in prison.

The full report is available here: www.apr.ch/global-report/