

An aerial photograph of a detention center in Luxembourg. The facility is a large, rectangular building with a red roof, situated in a green field. A yellow location pin is placed on the building. The text "Centre de Rétention" is overlaid on the image in white. The background shows a dense forest and some residential buildings.

Centre de Rétention

Centre de Rétention

# COUNTRY REPORT

IMMIGRATION DETENTION IN LUXEMBOURG:  
SYSTEMATIC DEPRIVATION OF LIBERTY

*April 2018*



**GLOBALDETENTIONPROJECT**

## ABOUT THE GLOBAL DETENTION PROJECT

The Global Detention Project (GDP) is a non-profit research centre based in Geneva, Switzerland, that investigates the use of detention in response to global migration. The GDP's aims include: (1) providing researchers, advocates, and journalists with a measurable and regularly updated baseline for analysing the growth and evolution of detention practices and policies; (2) facilitating accountability and transparency in the treatment of detainees; and (3) encouraging scholarship in this field of immigration and refugee studies.

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Front cover image: Satellite view of Findel Centre de Retention, Luxembourg / © Google 2018

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## KEY CONCERNS

- Grounds for detention in immigration law appear to be formulated in a non-exhaustive way, which is inconsistent with the principle of lawfulness and the requirement of legal certainty;
- The law provides an expansive list of situations that can lead to a risk of absconding determination, including irregular entry or stay;
- The broad basis for finding a risk of absconding leads to detention being applied systematically rather than exceptionally, thus “less coercive measures” are rarely used;
- Although Luxembourg has one of the shortest maximum lengths of detention in Europe, the maximum length for children and families was extended from three to seven days in 2017;
- Courts do not review detention on their own initiative, thus judicial authorities become involved only when there is an appeal against a detention decision;
- The detention centre employs private security guards, who have raised concerns in the past because of their failure to systematically undertake specialised training to work in an immigration detention environment;
- While observers have lauded the country for improving detention conditions since it opened its dedicated immigration facility in 2011, the country has also begun detaining more people since then.



## 1. INTRODUCTION

With a population of just over half a million, Luxembourg is one of Europe's smallest countries. It has traditionally welcomed migrant labourers, most commonly from other EU countries. In the 1990s, however, the country received thousands of asylum seekers who were fleeing conflict in the Balkans. This spurred the country to begin adopting stricter legislation and to establish its first immigration detention centre, the [Findel Detention Centre](#).

Despite Luxembourg's changing attitude towards migrants, the Council of Europe's Commissioner for Human Rights commended the country following a September 2017 visit, highlighting its efforts to respond to the "refugee and migrant crisis" by receiving asylum seekers, and relocating and resettling refugees. However, he noted that "more could be done to address delays in examining asylum claims and in ensuring access to housing, employment, and inclusive education."<sup>1</sup>

Like many EU countries, the number of asylum applications in Luxembourg increased in the wake of the "crisis." In 2016, 2,160 people sought asylum in the country and 2,505 in 2015. However, in 2014 there were only 1,150 new applicants and only 1,070 in 2013.<sup>2</sup>

As asylum applications have risen, so have the numbers of removals and detentions. The country returned 445 people in 2017 and 410 in 2016, compared to 720 in 2015 and 605 in 2014.<sup>3</sup> Likewise, in 2017 Luxembourg detained approximately 500 non-citizens; during the previous three years the total number of detainees per year was nearly 400.<sup>4</sup> Also notable is the fact that since Luxembourg opened its dedicated detention centre in 2011, there has been a noticeable increase in annual detention

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<sup>1</sup> Council of Europe Commissioner for Human Rights, "Luxembourg: Authorities Encouraged to Continue Efforts to Integrate Asylum-Seekers and Migrants," *Council of Europe*, 22 September 2017, <https://www.coe.int/hy/web/commissioner/-/luxembourg-authorities-encouraged-to-continue-efforts-to-integrate-asylum-seekers-and-migrants?desktop=true>

<sup>2</sup> Eurostat, "Asylum and managed migration," <http://ec.europa.eu/eurostat/data/database>

<sup>3</sup> Eurostat, "Asylum and managed migration," <http://ec.europa.eu/eurostat/data/database>

<sup>4</sup> *Ministère des Affaires Étrangères et Européennes*, "Rapport d'activité 2017," 2018, <https://gouvernement.lu/dam-assets/fr/publications/rapport-activite/minist-affaires-etrangeres-europeennes/2017-rapport-affaires-etrangeres/rapport-d-activite-2017-maee.pdf>; University of Luxembourg (EMN National Contact Point Luxembourg), "The Effectiveness of Return in EU Member States: Challenges and Good Practices Linked to EU Rules and Standards: Luxembourg," 2017, [https://ec.europa.eu/home-affairs/sites/homeaffairs/files/18a\\_luxembourg\\_effectiveness\\_of\\_return\\_final\\_en.pdf](https://ec.europa.eu/home-affairs/sites/homeaffairs/files/18a_luxembourg_effectiveness_of_return_final_en.pdf)



rates, from 177 in 2009 to 305 in 2012 (Findel's first full year of operations), to consistently in the range of 400 every year since 2014.<sup>5</sup>

In response to the increased number of Dublin cases and rejected applicants for international protection accommodated within regular reception facilities, the country opened a new "Emergency Housing Structure" in Kirchberg (*structure d'hébergement d'urgence Kirchberg* - SHUK), where those in Dublin procedures are accommodated. They are required to stay in the facility overnight.<sup>6</sup>

Since Luxembourg opened the Findel Detention Centre in September 2011, material conditions afforded to immigration detainees have improved and are generally considered adequate. Detainees have access to legal assistance free of charge and children tend not to be detained. Yet, the risk of absconding is systematically presumed when an individual does not have valid identity or travel documents. In addition, due to stringent requirements (fixed address and sufficient financial means to pay bail), "less coercive measures" are rarely used and detention appears to be the rule rather than the exception. The period of detention for families with children was recently extended from three to seven days.

Despite its small immigration detention estate, Luxembourg has received among the highest number of recommendations relating to immigration detention during the UN Universal Period Review (UPR). According to Global Detention Project estimates, the country received two recommendations during the first UPR cycle and four during the second. Only four EU countries—[Malta](#), [Greece](#), [Hungary](#), and [Belgium](#)—received more immigration detention-related recommendations.<sup>7</sup>

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<sup>5</sup> Global Detention Project, Website: Luxembourg Immigration Detention: Statistics, <https://www.globaldetentionproject.org/countries/europe/luxembourg>

<sup>6</sup> University of Luxembourg (EMN National Contact Point Luxembourg), "The Effectiveness of Return in EU Member States: Challenges and Good Practices Linked to EU Rules and Standards: Luxembourg," 2017, [https://ec.europa.eu/home-affairs/sites/homeaffairs/files/18a\\_luxembourg\\_effectiveness\\_of\\_return\\_final\\_en.pdf](https://ec.europa.eu/home-affairs/sites/homeaffairs/files/18a_luxembourg_effectiveness_of_return_final_en.pdf)

<sup>7</sup> UN Human Rights Council (OHCHR), "Universal Periodic Review: Luxembourg," <http://www.ohchr.org/EN/HRBodies/UPR/Pages/LUIndex.aspx>; the countries which received more recommendations were: Australia (32), Malta (22), Greece (13), Hungary (10), United States (10), Belgium (9), and Nauru (7).



## 2. LAWS, POLICIES, PRACTICES

**2.1 Key norms.** The detention of irregular migrants awaiting deportation was first mandated in the [Loi du 28 mars 1972 concernant 1. l'entrée et le séjour des étrangers; 2. le contrôle médical des étrangers; 3. l'emploi de la main-d'oeuvre étrangère](#) and the first immigration detention unit was established in 2002.<sup>8</sup>

The current legislative framework governing immigration detention is set forth in [Loi du 29 août 2008 sur la libre circulation des personnes et l'immigration](#) (Immigration Law), amended several times, and [Loi du 18 décembre 2015 relative à la protection internationale et à la protection temporaire](#) (Asylum Law). In addition, the functioning of the detention centre is regulated in [Loi du 28 mai 2009 portant création et organisation du Centre de rétention](#) (Law concerning the Establishment and Organisation of the Detention Centre).

**2.2 Grounds for detention.** Grounds for administrative immigration-related detention are provided in Article 120(1) of the Immigration Law. In addition, the Asylum Law provides a list of grounds for the administrative detention of asylum seekers (see section 2.3 Asylum Seekers) and the Immigration Law provides grounds for criminal prosecution and incarceration for immigration-related violations (see section 2.13 Criminalisation).

According to Article 120(1) of the Immigration Law, if non-citizens pose a risk of absconding or avoid or hamper their return (the latter ground generally relating to situations where a person hides or gives false information about their identity, or submits an asylum application to prevent their removal),<sup>9</sup> they can be placed in pre-removal detention. The provisions of Article 120(1) literally transpose Article 15(1) of the [EU Returns Directive](#) and add the terms “in particular,” giving the impression that these two listed grounds are not exhaustive. Article 120(1) thus lacks the legal

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<sup>8</sup> S. Kollwelter, “Immigration in Luxembourg: New Challenges for an Old Country,” *Migration Policy Institute*, March 2007, [www.migrationinformation.org/Profiles/display.cfm](http://www.migrationinformation.org/Profiles/display.cfm); A. Levinson, “The Regularisation of Unauthorized Migrants: Literature Survey and Country Case Studies: Regularisation Programmes in Luxembourg,” *Centre on Migration, Policy and Society, University of Oxford*, 2005, [https://www.compas.ox.ac.uk/2005/er-2005-regularisation\\_unauthorized\\_literature/](https://www.compas.ox.ac.uk/2005/er-2005-regularisation_unauthorized_literature/)

<sup>9</sup> University of Luxembourg (EMN National Contact Point Luxembourg), “The Use of Detention and Alternatives to Detention in the Context of Immigration Policies in Luxembourg,” 2014, <https://bit.ly/2Glzycp>

certainty required under the principle of lawfulness under Article 5(1) of the [European Convention on Human Rights](#).<sup>10</sup>

Article 111(3)(c) of the Immigration Law enumerates factors for determining the risk of absconding, notably if the non-citizen does not fulfil the requirements of entry and stay in the territory; remains on the territory longer than the validity of his visa or over three months (in case no visa is needed); has avoided the execution of a previous removal decision; has been issued an expulsion decision based on a serious threat to public order or public security, or breach of the existing re-entry ban; has counterfeited or falsified a residence permit, an identification document, or a travel document; cannot justify the possession of valid identity or travel documents; has hidden elements of his identity; has failed to declare the place of his actual residence; or does not respect the order to leave the territory or the terms of home custody.

Article 111(3) provides that the risk of absconding is to be assessed on a case-by-case basis. According to country experts, however, the risk of absconding is presumed in nearly all cases where the individual does not have valid identity, travel, or resident documents, leading to quasi-automatic placement in detention rather than the consideration of alternatives to detention. As the Luxembourgish Refugee Council (LFR) states, an individuals' irregular situation should not in itself result in the presumption that the individual may abscond.<sup>11</sup>

Additionally, under Article 120(1) of the Immigration Law, if a non-citizen who has been refused entry is confined in a transit zone for more than 48 hours, he or she should be placed in detention.

**2.3 Asylum seekers.** Reflecting the [EU Reception Conditions Directive](#), Article 22(2) of the Asylum Law lays down five grounds justifying the detention of asylum seekers, notably: to determine or verify an individual's identity or nationality; to determine the elements on which the person's asylum claim is based, which could not be obtained without imposing detention—particularly if there is a risk of absconding; to protect national security or public order; the individual is within the context of the Dublin procedures and there is a risk of absconding; the individual applies for asylum having already been placed in pre-removal detention (if there are reasonable grounds to believe that they are submitting the application to postpone their expulsion because they had already had an opportunity to submit their application).

**2.4 Children.** The Immigration Law explicitly provides for the detention of unaccompanied children in an “appropriate place” adapted to their needs (Article 120(1)). While the Immigration Law does not explicitly provide for the detention of

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<sup>10</sup> ECtHR, *Sadaykov v. Bulgaria*, 75157/01, (22 May 2008); ECtHR, *Galliani v. Romania*, 69273/01, (10 June 2008).

<sup>11</sup> University of Luxembourg (EMN National Contact Point Luxembourg), “The Use of Detention and Alternatives to Detention in the Context of Immigration Policies in Luxembourg,” 2014, <https://bit.ly/2Glzycp>



accompanied minors and families, a separate law, the Law concerning the Detention Centre, stipulates that they can be detained for up to seven days (Article 6(3)). Additionally, the Asylum Law (Article 22(1)) provides that children may be detained as a measure of last resort and after it has been established that other less coercive measures cannot be applied effectively.

In addition to specifying an “appropriate place” for detaining unaccompanied children, Article 120(1) of the Immigration Law stipulates that the best interests of the child are to be taken into account, and that they must be assisted by an “ad-hoc administrator” (Article 103). Unaccompanied children are not deported, unless it is deemed to be in their best interest or they represent a serious threat to public safety.

Until recently, the law placed a limit on the duration of time for which families with children may be detained: 72 hours. In practice, however, it was reported that families were detained for 24 hours prior to expulsion.<sup>12</sup> In March 2017, the time limit was extended to seven days (Law concerning the Detention Centre, Article 6(3)). The reason provided for this extension was to enhance the organisation of returns and to ensure that they are carried out “successfully.”<sup>13</sup> The [Council of Europe Commissioner for Human Rights](#) expressed concern over the extension and called on the country to develop “alternatives to detention” in their domestic law and policies and, ultimately, to put an end to the detention of migrant children.<sup>14</sup>

For several years, the country has planned to set up an open reception centre for families where they can be accommodated prior to their expulsion (*Maison retour*).<sup>15</sup> However, as of August 2017, this facility has not yet been established.<sup>16</sup>

In her 2014 report, the [Ombudswoman](#) raised concern that the law did not provide for a limit to the length of time unaccompanied children can be detained for, nor a safeguard that their detention is to be a measure of last resort.<sup>17</sup> However, the Administrative Court interpreted Article 6(3) of the Law concerning the Detention

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<sup>12</sup> University of Luxembourg (EMN National Contact Point Luxembourg), “The Use of Detention and Alternatives to Detention in the Context of Immigration Policies in Luxembourg,” 2014, <https://bit.ly/2Glzycp>

<sup>13</sup> University of Luxembourg (EMN National Contact Point Luxembourg), “The Effectiveness of Return in EU Member States: Challenges and Good Practices Linked to EU Rules and Standards: Luxembourg,” 2017, [https://ec.europa.eu/home-affairs/sites/homeaffairs/files/18a\\_luxembourg\\_effectiveness\\_of\\_return\\_final\\_en.pdf](https://ec.europa.eu/home-affairs/sites/homeaffairs/files/18a_luxembourg_effectiveness_of_return_final_en.pdf)

<sup>14</sup> Council of Europe Commissioner for Human Rights, “Luxembourg Should Not Extend the Period of Detention of Migrant Children but Work to Eliminate the Practice: Statement,” 6 February 2017, <https://bit.ly/2uXU2Z5>

<sup>15</sup> University of Luxembourg (EMN National Contact Point Luxembourg), “The Use of Detention and Alternatives to Detention in the Context of Immigration Policies in Luxembourg,” 2014, <https://bit.ly/2Glzycp>

<sup>16</sup> University of Luxembourg (EMN National Contact Point Luxembourg), “The Effectiveness of Return in EU Member States: Challenges and Good Practices Linked to EU Rules and Standards: Luxembourg,” 2017, [https://ec.europa.eu/home-affairs/sites/homeaffairs/files/18a\\_luxembourg\\_effectiveness\\_of\\_return\\_final\\_en.pdf](https://ec.europa.eu/home-affairs/sites/homeaffairs/files/18a_luxembourg_effectiveness_of_return_final_en.pdf)

<sup>17</sup> Ombudsman 2014. “Rapport du contrôleur externe relatif au Centre de rétention, Luxembourg,” p.12-16, <http://www.ombudsman.lu/uploads/RV/RV8.zip>

Centre—which explicitly addresses families with children—as also applying to unaccompanied children.<sup>18</sup>

The [UN Committee on the Rights of the Child](#) also expressed its concern in 2013 that domestic legislation explicitly allows for unaccompanied children to be detained while they await removal from Luxembourg. The committee recommended that the country take into account its [General Comment No. 6 \(2005\) on the treatment of unaccompanied and separated children outside their country of origin](#) and adopt legislation to prevent the detention of unaccompanied children.<sup>19</sup>

According to the European Migration Network (EMN) National Contact Point for Luxembourg, children tend not to be detained, despite the law foreseeing that unaccompanied children may be placed in detention. In fact, between 2012 and 2016, no unaccompanied children were detained.<sup>20</sup> Initially, children are placed in the Don Bosco reception facility managed by the [Luxembourgish Red Cross](#). This facility, which is guarded by a private security company, accommodates newly arrived asylum applicants before they are transferred to other reception facilities. Afterwards, they are placed in reception centres run by [Caritas Luxembourg](#) or the Luxembourgish Red Cross. Hosting both adult and child asylum seekers, these facilities are not specifically designed for unaccompanied children. Generally, children aged between 16 and 16 ½ are placed in centres managed by the Luxembourgish Red Cross, and those aged between 16 ½ and 18 are placed in centres run by Caritas. Unaccompanied children who are younger than 16 are placed in orphanages. However, if there are no available spaces, they are placed in centres run by the Luxembourgish Red Cross.<sup>21</sup>

**2.5 Other vulnerable groups.** Luxembourg immigration legislation implicitly permits detention of vulnerable people because its detention-related provisions stipulate that particular attention has to be paid to the situation of vulnerable people, such as minors, unaccompanied minors, disabled people, elderly people, pregnant women, single parents with minor children, and persons who have been subjected to torture, rape or other serious forms of psychological, physical or sexual violence (Article 7.2 of the Law concerning the Detention Centre). The Global Detention Project was not able to verify the extent to which various vulnerable groups are detained in practice.

**2.6 Length of detention.** The initial maximum period of pre-removal detention is one month. This period can be extended three times, each time for one month. If, despite

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<sup>18</sup> University of Luxembourg (EMN National Contact Point Luxembourg), "Policies, Practices and Data on Unaccompanied Minors in 2014," 2014, <https://bit.ly/2H7OsYZ>

<sup>19</sup> Committee on the Rights of the Child, "Concluding Observations on the Combined Third and Fourth Periodic Reports of Luxembourg, CRC/C/LUX/CO/3-4," 29 October 2013, <http://www.ohchr.org/EN/Countries/ENACARegion/Pages/LUIndex.aspx>

<sup>20</sup> University of Luxembourg (EMN National Contact Point Luxembourg), "The Effectiveness of Return in EU Member States: Challenges and Good Practices Linked to EU Rules and Standards: Luxembourg," 2017, [https://ec.europa.eu/home-affairs/sites/homeaffairs/files/18a\\_luxembourg\\_effectiveness\\_of\\_return\\_final\\_en.pdf](https://ec.europa.eu/home-affairs/sites/homeaffairs/files/18a_luxembourg_effectiveness_of_return_final_en.pdf)

<sup>21</sup> University of Luxembourg (EMN National Contact Point Luxembourg), "Policies, Practices and Data on Unaccompanied Minors in 2014," 2014, <https://bit.ly/2H7OsYZ>

all efforts put in place, a return operation lasts longer due to the detainee or the country of destination failing to cooperate, detention can be extended twice, each time for one month. The maximum pre-removal detention period is thus six months (Immigration Law, Article 120(3)). Although this length of detention is one of the shortest in the EU, it had previously been set at three months (prior to the transposition of the Returns Directive).<sup>22</sup> In 2013, during the [Universal Periodic Review](#) of Luxembourg, the country supported a recommendation formulated by Norway to take measures to reduce the pre-removal detention time limit.<sup>23</sup>

Families with children, meanwhile, can be detained for a maximum period of seven days (Law concerning the Detention Centre, Article 6(3)), while asylum seekers can be detained for up to 12 months in total (Asylum Law, Article 22(4)). Initially, asylum seekers can be detained for a maximum of three months. After this, their detention can be renewed for another three months up to three times. The 12-month limit also applies in circumstances where an individual detained under the Immigration Law applies for asylum to delay or obstruct the execution of the return decision. This may thus work as a deterrent, discouraging people from seeking asylum.

The average length of detention in the country's sole detention centre was 27 days in 2017, and 38 days in 2016. In 2017, 19 detainees were held for more than 4 months, while in 2016 this number amounted to 36.<sup>24</sup>

**2.7 Procedural guarantees.** The minister in charge of immigration orders and extends detention (Immigration Law, Article 120(1)).<sup>25</sup> If the ministry cannot provide a written detention decision, a non-citizen can be detained based on an oral decision if the written confirmation arrives within 48 hours (Immigration Law, Article 120(2)). The notification of the decision is provided by judicial police, is made in writing, and is in a language which it is reasonable to assume the foreigner understands—except in duly recorded cases when this is physically impossible. In 2011, the [European Commission against Racism and Intolerance](#) (ECRI) observed that, reportedly, immigration detainees were not informed of the reasons for their detention, their rights, and possible remedies in a language they understood. The ECRI urged the country to remedy these shortcomings.<sup>26</sup>

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<sup>22</sup> European Parliament, "'Return' Directive: First Reading Vote in the European Parliament: Press Release," 11 June 2008, <http://www.europarl.europa.eu/sides/getDoc.do?type=IM-PRESS&reference=20080609BKG31068&language=EN>

<sup>23</sup> Human Rights Council, "Report of the Working Group on the Universal Periodic Review: Luxembourg, A/HRC/23/10," 25 March 2013, <http://www.ohchr.org/EN/HRBodies/UPR/Pages/LUIndex.aspx>

<sup>24</sup> *Ministère des Affaires Étrangères et Européennes*, "Rapport d'activité 2017," 2018, <https://gouvernement.lu/dam-assets/fr/publications/rapport-activite/minist-affaires-etrangeres-europeennes/2017-rapport-affaires-etrangeres/rapport-d-activite-2017-maee.pdf>

<sup>25</sup> University of Luxembourg (EMN National Contact Point Luxembourg), "The Use of Detention and Alternatives to Detention in the Context of Immigration Policies in Luxembourg," 2014, <https://bit.ly/2Glzycp>

<sup>26</sup> European Commission against Racism and Intolerance (ECRI), "ECRI Report on Luxembourg: Fourth Monitoring Cycle, CRI(2012)4," December 2011, [https://www.coe.int/t/dghl/monitoring/ecri/Country-by-country/Luxembourg/Luxembourg\\_CBC\\_en.asp](https://www.coe.int/t/dghl/monitoring/ecri/Country-by-country/Luxembourg/Luxembourg_CBC_en.asp)

Following the notification of a detention decision, a police officer should write up a report mentioning the date the detainee was notified of the decision, a statement from the individual confirming that they have been informed of their rights spelled out in Article 122(2)-(3), and the language in which the individual made his or her statement (Article 121(2)). The report should then be presented to the detainee for them to sign. If they refuse to sign it, their refusal and reasons for it should be recorded. The report is then forwarded to the minister and a copy is given to the detainee.

Detainees are to be immediately informed—in writing and against confirmation, in a language they are reasonably presumed to understand (except if this is materially impossible)—of their right to choose a lawyer or to be appointed one, their right to a medical check-up within 24 hours of arrest, and their right for family or a person of their choice to be notified of the situation. (Detainees can use a telephone for this purpose free of charge (Article 122(2)-(3)).) Reportedly, if detainees do not have adequate resources, lawyers' costs will be covered for them.<sup>27</sup> Detainees also have the right to linguistic assistance to defend their interests (Immigration Law, Article 122(1); Asylum Law, Article 23(5)). The detention centre has an arrangement with the interpretation department of the Luxembourgish Red Cross, which provides linguistic assistance in multiple languages.<sup>28</sup>

The courts do not review detention *ex officio*. Judicial authorities are only involved in appeals against detention decisions—including decisions regarding the extension of detention.<sup>29</sup> Pre-removal detention decisions can be appealed before the administrative tribunal (first instance administrative court)<sup>30</sup> within one month (Immigration Law, Article 123), and asylum detention within three months (Asylum Law, Article 22(6)) from the notification of detention. The tribunal renders its decision within ten days. In the context of pre-removal detention, the decision of the administrative tribunal can be appealed before the administrative court within three days. The court has ten days to issue its decision (Immigration Law, Article 22(6)).

Under the Law concerning the Detention Centre, detainees are entitled to submit a complaint to “any competent authority” regarding the conditions of detention and restrictive measures (Article 21).

**2.8 Detaining authorities and institutions.** Detention is ordered by the minister in charge of immigration (Immigration Law, Article 120(1)) through the Directorate of

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<sup>27</sup> University of Luxembourg (EMN National Contact Point Luxembourg), “The Use of Detention and Alternatives to Detention in the Context of Immigration Policies in Luxembourg,” 2014, <https://bit.ly/2Glzycp>

<sup>28</sup> University of Luxembourg (EMN National Contact Point Luxembourg), “The Use of Detention and Alternatives to Detention in the Context of Immigration Policies in Luxembourg,” 2014, <https://bit.ly/2Glzycp>

<sup>29</sup> University of Luxembourg (EMN National Contact Point Luxembourg), “The Effectiveness of Return in EU Member States: Challenges and Good Practices Linked to EU Rules and Standards: Luxembourg,” 2017, [https://ec.europa.eu/home-affairs/sites/homeaffairs/files/18a\\_luxembourg\\_effectiveness\\_of\\_return\\_final\\_en.pdf](https://ec.europa.eu/home-affairs/sites/homeaffairs/files/18a_luxembourg_effectiveness_of_return_final_en.pdf)

<sup>30</sup> University of Luxembourg (EMN National Contact Point Luxembourg), “The Effectiveness of Return in EU Member States: Challenges and Good Practices Linked to EU Rules and Standards: Luxembourg,” 2017, [https://ec.europa.eu/home-affairs/sites/homeaffairs/files/18a\\_luxembourg\\_effectiveness\\_of\\_return\\_final\\_en.pdf](https://ec.europa.eu/home-affairs/sites/homeaffairs/files/18a_luxembourg_effectiveness_of_return_final_en.pdf)

Immigration (Return Department).<sup>31</sup> The same ministry operates the detention centre.<sup>32</sup>

**2.9 Non-custodial measures.** Pursuant to Article 120(1) of the Immigration Law, non-citizens may be placed in detention if other less coercive measures cannot be effectively applied. Article 125(1) clarifies that in cases where pre-removal detention is justified, the minister may also decide to apply less coercive measures with respect to a non-citizen whose expulsion is postponed for technical reasons and who presents effective guaranties to prevent the risk of absconding (as defined in Article 111(3), see above under “Grounds for detention.”) In turn, the Asylum Law provides for a stronger presumption in favour of less coercive measures. Under Article 22(3), the detention of asylum seekers is based on a case-by-case assessment, and is employed when it proves necessary and when other less coercive measures cannot be effectively applied.

Article 125(1) of the Immigration Law and Article 22(3) of the Asylum Law list four less coercive measures:

- First, upon handing in a passport or proof of identity document in exchange for a receipt validating identity, the individual should regularly appear (at intervals fixed by the minister) at the services of the minister or of an alternative authority designated by him.
- Second, the individual can be subject to house arrest for up to six months in a location fixed by the minister.
- Third, house arrest may, if necessary, be accompanied by the use of an electronic surveillance measure, which prevents the individual from leaving the perimeter fixed by the minister. While under electronic surveillance, the individual can be obligated to wear a device with an integrated transmitter. The implementation of this measure must guarantee respect for the dignity, integrity, and privacy of the individual.
- Finally, the individual may be required to lodge a financial guarantee of 5,000 EUR, which the state retains in case of absconding or forced removal. The guarantee is returned in instances of voluntary return.

Decisions ordering less coercive measures must be duly reasoned and indicate the available remedies. The non-citizen receives a copy of the decision, and upon his or her request, the main elements of the decision are communicated in a language he or she understands or is reasonably supposed to understand (Article 125(1), 109, and 110). The decisions can be appealed in the same manner as detention decisions (see above, “Procedural safeguards.”) Measures can be applied together, and in the event that the non-citizen fails to comply with the obligations imposed by

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<sup>31</sup> University of Luxembourg (EMN National Contact Point Luxembourg), “The Effectiveness of Return in EU Member States: Challenges and Good Practices Linked to EU Rules and Standards: Luxembourg,” 2017, [https://ec.europa.eu/home-affairs/sites/homeaffairs/files/18a\\_luxembourg\\_effectiveness\\_of\\_return\\_final\\_en.pdf](https://ec.europa.eu/home-affairs/sites/homeaffairs/files/18a_luxembourg_effectiveness_of_return_final_en.pdf)

<sup>32</sup> University of Luxembourg (EMN National Contact Point Luxembourg), “The Use of Detention and Alternatives to Detention in the Context of Immigration Policies in Luxembourg,” 2014, <https://bit.ly/2Glzycp>



the minister or in the event of a risk of flight, the measure is revoked and detention is ordered (Article 125(1)).

Detention appears to be a rule rather than exception and “alternatives” are rarely used. Although decisions should theoretically be taken on a case-by-case basis, where a legal presumption of a risk of absconding exists, detention is ordered in a quasi-automatic manner. The application of alternatives to detention is often discarded due to the presumed risk of absconding. The burden of proof to reverse this presumption lies with the individual concerned, but most non-citizens fail to provide the necessary evidence and are thus not afforded an alternative to detention.<sup>33</sup>

In practice, non-citizens also need to have a fixed address (reception centres do not count) in order to be granted alternatives to detention.<sup>34</sup> Most people do not have a fixed address in Luxembourg, nor sufficient resources to pay bail. Although legislation provides for combining home custody with electronic surveillance, the electronic tag has not yet been implemented.<sup>35</sup> According to official statistics, 2 persons were granted an alternative to detention in 2013, none in 2012, and one in 2011.<sup>36</sup>

In 2013, during the Universal Periodic Review of Luxembourg, the country supported a recommendation formulated by Togo to put alternatives to detention in place.<sup>37</sup>

**2.10 Regulation of detention conditions.** The Law concerning the Detention Centre, supplemented by the [Grand-Ducal Regulation of 17 August 2011 laying down the Conditions and Practical Arrangements of the Detention Centre Regime](#), regulates the conditions in detention, as well as the centre's detention regime.

As stipulated in the Law concerning the Detention Centre, men and women are held separately in the centre, unless they are members of the same family and all persons concerned agree to be held together. Families with children are placed in a special section which is specifically reserved for them (Article 6).

Every newly admitted person receives an explanation of the detention regime, with linguistic assistance if needed. Against their signature, detainees receive a copy of the rules of procedures in a language, which they are reasonably supposed to

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<sup>33</sup> University of Luxembourg (EMN National Contact Point Luxembourg), "The Use of Detention and Alternatives to Detention in the Context of Immigration Policies in Luxembourg," 2014, <https://bit.ly/2Glzycp>

<sup>34</sup> University of Luxembourg (EMN National Contact Point Luxembourg), "The Use of Detention and Alternatives to Detention in the Context of Immigration Policies in Luxembourg," 2014, <https://bit.ly/2Glzycp>

<sup>35</sup> University of Luxembourg (EMN National Contact Point Luxembourg), "The Effectiveness of Return in EU Member States: Challenges and Good Practices Linked to EU Rules and Standards: Luxembourg," 2017, [https://ec.europa.eu/home-affairs/sites/homeaffairs/files/18a\\_luxembourg\\_effectiveness\\_of\\_return\\_final\\_en.pdf](https://ec.europa.eu/home-affairs/sites/homeaffairs/files/18a_luxembourg_effectiveness_of_return_final_en.pdf)

<sup>36</sup> University of Luxembourg (EMN National Contact Point Luxembourg), "The Use of Detention and Alternatives to Detention in the Context of Immigration Policies in Luxembourg," 2014, <https://bit.ly/2Glzycp>

<sup>37</sup> Human Rights Council, "Report of the Working Group on the Universal Periodic Review: Luxembourg, A/HRC/23/10," 25 March 2013, <http://www.ohchr.org/EN/HRBodies/UPR/Pages/LUIndex.aspx>

understand, a copy of the table of the Bar Association, and a list of organisations supporting migrants which have been approved for these purposes by the minister. As mentioned in section 2.7 Procedural guarantees, detainees have the right to notify one person of their choice about their detention (Article 7), and within 24 hours of being placed in the centre, they must be examined by a physician (Article 18).

Detainees are entitled to free medical care, while dental care is limited to urgent and essential care only (Article 9). Detainees receive three meals per day, including one hot meal, and the food they are served should take into account their religious traditions (Article 18). Detainees can receive visits—either with or without surveillance (Article 15). They are entitled to at least two visits per week, with a maximum three visitors at time (Regulation, Article 22). The centre offers cultural, artistic, and recreational activities (Article 12), and detainees can freely access an outdoor area and correspond freely with those outside the centre via mail, telephone, or email (Articles 13 and 14).

Upon admission, and during their stay at the centre, body searches are carried out in respect of their dignity by at least two staff members of the same gender as the detainee (Articles 8 and 17). Staff at the centre are prohibited from resorting to violence against detainees, and coercion is permitted only to prevent detainees from harming themselves or others, or causing damage. Under no circumstances may the use of coercive measures be extended beyond the time strictly necessary to overcome the resistance of the individual concerned. The use of such measures must be reported in writing to the director of the centre without delay (Article 22). Security inside the centre is ensured by the centre's staff, while external security is provided by the police. However, the director of the centre may request police assistance if the staff in the centre are unable to resolve an internal incident (Article 23).

The Grand-Ducal Regulation lists the behaviours which are penalised by disciplinary sanctions. These include physical or psychological violence against staff at the centre, visitors, or other detainees; damage to the premises, installations, or equipment in the centre; disobedience or insubordination against orders or instructions; disturbance of good order at the centre or rest of other detainees; acts, words, or gestures contrary to decency; lack of hygiene or poor maintenance of private premises; behaviour that jeopardises the security of the centre or endangers the safety and health of staff, visitors, or other detainees; false alarms or alerts; supply, possession, trade, consumption, or use of illicit or prohibited substances; or attempt to escape (Article 29).

As stipulated in the Law concerning the Detention Centre, the sanctions are to be proportionate to the nature and gravity of the offence and are notified in a written decision which indicates the means and deadline for appeal. Before receiving the sanction, the detainee is heard by the director of the centre and informed of incumbent acts, and may be assisted by a counsel and interpreter (Article 19). The sanctions include warnings, exclusion from the 3 EUR daily allowance benefit for up

to 15 days, and isolation for up to five consecutive days. Isolation, which takes place in a room with reduced facilities, can only be carried out if the doctor examines the detainee and confirms in writing that they are willing to support it. Isolation is suspended if the doctor finds that it is likely to hamper the physical or mental health of the individual. During isolation, the detainee is not permitted to purchase anything, communicate with the outside world (except lawyers, medical personnel, and religious representatives), and participate in recreational activities. They are, however, still entitled to a one-hour outdoor walk each day. Disciplinary sanctions can be appealed before the administrative tribunal, which makes its decision within three days (Article 20).

**2.11 Domestic monitoring.** There are a number of associations approved by the minister who can visit the centre without prior warning on any day during specific hours.<sup>38</sup> As of 2010, representatives of Amnesty International, Action des Chrétiens pour l'Abolition de la Torture (ACAT), the Association de Soutien aux Travailleurs Immigrés (ASTI), Caritas, and the Red Cross were visiting the detention centre. Caritas coordinated these visits, and visitors regularly reported their findings during Luxembourg Refugee Council (LFR) meetings. They also met with members of the prison administration every three months, as well as representatives from the Ministry of Foreign Affairs when necessary.<sup>39</sup> In 2014, the Ombudswoman also visited the detention centre.<sup>40</sup>

**2.12 International monitoring.** Like all other Council of Europe countries that have ratified the [European Convention for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment](#), Luxembourg is visited by the [European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment](#) (CPT). Other international bodies that have issued detention-related recommendations to Luxembourg include the Council of Europe's European Commission against Racism and Intolerance,<sup>41</sup> the UN Commissioner for Human Rights,<sup>42</sup> and the UN Committee on the Rights of the Child.<sup>43</sup>

**2.13 Criminalisation.** Luxembourg applies penal sanctions for irregular stay and entry. According to Article 140 of the Immigration Law, a non-citizen is liable to imprisonment for a period which can range from eight days to one year and/ or a fine of 251 to 1,250 EUR if, without a valid reason for non-return, they stay in an irregular

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<sup>38</sup> University of Luxembourg (EMN National Contact Point Luxembourg), "The Use of Detention and Alternatives to Detention in the Context of Immigration Policies in Luxembourg," 2014, <https://bit.ly/2Glzycp>

<sup>39</sup> Ana-Marija Soric (Caritas), Interview with Alexandra Lamb (Global Detention Project), 10 May 2010.

<sup>40</sup> Ombudsman, "Centre de Rétention," 2014, <http://www.ombudsman.lu/uploads/RV/RV8.zip>

<sup>41</sup> European Commission against Racism and Intolerance (ECRI), "ECRI Report on Luxembourg: Fourth Monitoring Cycle, CRI(2012)4," December 2011, [https://www.coe.int/t/dghl/monitoring/ecri/Country-by-country/Luxembourg/Luxembourg\\_CBC\\_en.asp](https://www.coe.int/t/dghl/monitoring/ecri/Country-by-country/Luxembourg/Luxembourg_CBC_en.asp)

<sup>42</sup> Council of Europe Commissioner for Human Rights, "Luxembourg Should Not Extend the Period of Detention of Migrant Children but Work to Eliminate the Practice, Statement," 6 February 2017, <https://bit.ly/2uXU2Z5>

<sup>43</sup> Committee on the Rights of the Child, "Concluding Observations on the Combined Third and Fourth Periodic Reports of Luxembourg, CRC/C/LUX/CO/3-4," 29 October 2013, <http://www.ohchr.org/EN/Countries/ENACARegion/Pages/LUIndex.aspx>

manner on the territory of Luxembourg after having been released from detention or their house arrest has expired.

Until June 2014, Article 140 was applicable not only to irregular stay but also to irregular entry. In December 2015, a new provision—Article 143—was inserted into the Immigration Law. According to this, the irregular crossing of external EU borders is punishable with a fine of 1,500 EUR.

Re-entry during the validity of an entry ban can be punished with imprisonment between 6 months and 3 years and/or a fine of between 251 and 3,000 EUR (Immigration Law, Article 142).

**2.14 Privatisation.** In 2009, the country's authorities began discussing the possibility employing private security firms. The government explained at the time that a private firm would only be entrusted with missions that did not require direct contact with detainees.<sup>44</sup> Since 2015, the Findel Detention Centre has employed both public and private personnel. As of that year, 19 private security guards were in charge of security on the premises including the external perimeter, the management of visits, transfers within the centre for activities, and surveillance of activities.<sup>45</sup>

**2.15 Cost of detention.** According to official sources, the total of cost of detention was 2,397,992 EUR in 2013. Of this total cost, 1,611,000 EUR were spent on the use and maintenance of the building; 342,000 EUR on medical assistance; 237,457 EUR on food, 35,000 EUR on training and support of detainees; 30,000 EUR on training staff and consultancies; 21,100 EUR on clothing, shoes, and bedding for detainees; 21,150 EUR on postal services and telecommunications; and 20,000 EUR on office expenses.<sup>46</sup>

**2.16 Trends and statistics.** According to statistics from the Directorate of the Detention Centre (Ministry of Foreign and European Affairs), the number of detainees has gradually risen over the past decade recent years: 493 non-citizens were detained in 2017; 391 in 2016; 394 in 2015; 392 in 2014; 284 in 2013; 322 in 2012; 200 in 2010; and 177 in 2009. This upward trend in detainee numbers roughly

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<sup>44</sup> 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) 22 au 27 avril 2009, CPT/Inf (2010) 31," October 2010, <https://www.coe.int/en/web/cpt/luxembourg>; Government of Luxembourg, "Réponse du Gouvernement du Grand-Duché de Luxembourg au rapport du Comité européen pour la prévention de la torture et des peines ou traitements inhumains ou dégradants (CPT) relatif à sa visite effectuée au Luxembourg du 22 au 27 avril 2009, CPT/Inf (2010) 32," October 2010, <https://www.coe.int/en/web/cpt/luxembourg>

<sup>45</sup> 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) du 28 janvier au 2 février 2015, CPT/Inf (2015) 30," September 2015, <https://www.coe.int/en/web/cpt/luxembourg>

<sup>46</sup> University of Luxembourg (EMN National Contact Point Luxembourg), "The Use of Detention and Alternatives to Detention in the Context of Immigration Policies in Luxembourg," 2014, <https://bit.ly/2Glzycp>

corresponds with the opening of the country's first (and only) dedicated immigration facility at Findel in 2011.

Out of the total number of detainees, there were 28 families detained in 2017; 33 in 2015; 27 in 2014; 14 in 2013; and 27 in 2012. During these years, no unaccompanied children were detained. Women also constitute a minority: there were just 16 female detainees in 2017 and 2016 combined.<sup>47</sup>

In 2017, out of the total 493 immigration detainees, 241 were transferred to the country responsible for their asylum claim within the Dublin Regulation framework, 133 were deported to their countries of origin, one returned via semi voluntary return with the International Organisation for Migration, 69 were released, one was sent to prison, and one escaped. At the end of 2017, the centre held 47 non-citizens.<sup>48</sup>

The most common detainee nationalities in 2017 were Nigerian (50 detainees), Algeria (44 detainees), Morocco (44 detainees), Albania (43), and Serbia (42).<sup>49</sup>

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<sup>47</sup> *Ministere des Affaires Etrangeres et Europeennes, "Rapport d'activité 2017,"* 2018, <https://gouvernement.lu/dam-assets/fr/publications/rapport-activite/minist-affaires-etrangees-europeennes/2017-rapport-affaires-etrangees/rapport-d-activite-2017-maee.pdf>; *Ministere des Affaires Etrangeres et Europeennes, "Rapport d'activité 2016,"* 2017, <https://gouvernement.lu/en/publications/rapport-activite/minist-affaires-etrangees-europeennes/2016-rapport-affaires-etrangees-europeennes.html>; University of Luxembourg (EMN National Contact Point Luxembourg), "The Effectiveness of Return in EU Member States: Challenges and Good Practices Linked to EU Rules and Standards: Luxembourg," 2017, [https://ec.europa.eu/home-affairs/sites/homeaffairs/files/18a\\_luxembourg\\_effectiveness\\_of\\_return\\_final\\_en.pdf](https://ec.europa.eu/home-affairs/sites/homeaffairs/files/18a_luxembourg_effectiveness_of_return_final_en.pdf)

<sup>48</sup> *Ministere des Affaires Etrangeres et Europeennes, "Rapport d'activité 2017,"* 2018, <https://gouvernement.lu/dam-assets/fr/publications/rapport-activite/minist-affaires-etrangees-europeennes/2017-rapport-affaires-etrangees/rapport-d-activite-2017-maee.pdf>

<sup>49</sup> *Ministere des Affaires Etrangeres et Europeennes, "Rapport d'activité 2017,"* 2018, <https://gouvernement.lu/dam-assets/fr/publications/rapport-activite/minist-affaires-etrangees-europeennes/2017-rapport-affaires-etrangees/rapport-d-activite-2017-maee.pdf>





### 3. DETENTION INFRASTRUCTURE

**3.1 Summary.** Luxembourg operates one long-term dedicated immigration detention facility—the **Findel Detention Centre** (officially, the “Centre de rétention”)—as well as a short-term custodial facility in Luxembourg Airport’s transit area.<sup>50</sup> Previously, Luxembourg confined male immigration detainees in a special immigration unit (called *le centre de séjour provisoire pour étrangers en situation irrégulière*), which was located inside a prison—the *Centre Penitentiaire du Luxembourg*—and had been used since 2002.<sup>51</sup> Women were detained in the women’s section of the prison, though they were basically in isolation so as to separate them from criminal detainees.<sup>52</sup> The special unit attracted criticism for its policy of mixing administrative and criminal detainees together and using the same staff to treat both sets of detainees.<sup>53</sup> The special unit was closed in 2011.

**3.2 Detention facilities.** The Findel Detention Centre and the Luxembourg Airport transit zone.

**3.2a Findel Detention Centre.** Located near Luxembourg Airport in Sandweiler, the Findel Detention Centre (*Centre de rétention*) has a capacity of 88 and operates under the authority of the minister in charge of immigration.<sup>54</sup> Opened in August

<sup>50</sup> Luxembourg Government, “Centre de rétention,” 30 January 2018, <https://cr.gouvernement.lu/fr/service.html>; University of Luxembourg (EMN National Contact Point Luxembourg), “The Effectiveness of Return in EU Member States: Challenges and Good Practices Linked to EU Rules and Standards: Luxembourg,” 2017, [https://ec.europa.eu/home-affairs/sites/homeaffairs/files/18a\\_luxembourg\\_effectiveness\\_of\\_return\\_final\\_en.pdf](https://ec.europa.eu/home-affairs/sites/homeaffairs/files/18a_luxembourg_effectiveness_of_return_final_en.pdf); 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) du 28 janvier au 2 février 2015, CPT/Inf (2015) 30,” September 2015, <https://www.coe.int/en/web/cpt/luxembourg>

<sup>51</sup> Jesuit Refugee Service, “Luxembourg country profile,” August 2008.

<sup>52</sup> 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) du 2 au 7 février 2003, CPT/Inf (2004) 12,” February 2004, <https://www.coe.int/en/web/cpt/luxembourg>; Jesuit Refugee Service, “Luxembourg country profile,” August 2008, J.Hansen, “Asile et immigration: Sur le fil du rasoir,” *D’Land*, 26 January 2007, <http://www.land.lu/page/article/316/2316/FRE/index.html>; Ana-Marija Soric (Caritas), Interview with Alexandra Lamb (Global Detention Project), 10 May 2010.

<sup>53</sup> J.Hansen, “Asile et immigration: Sur le fil du rasoir,” *D’Land*, 26 January 2007, <http://www.land.lu/page/article/316/2316/FRE/index.html>; Government of Luxembourg, “Nouvelle loi sur la procédure d’asile adoptée par la Chambre des députés,” 20 December 2005, [https://gouvernement.lu/fr/actualites/toutes\\_actualites/articles/2005/12/20asile.html](https://gouvernement.lu/fr/actualites/toutes_actualites/articles/2005/12/20asile.html)

<sup>54</sup> European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment

2011, the centre replaced the 24-person special unit for immigration detainees at the *Centre Penitentiaire du Luxembourg*.<sup>55</sup>

Plans to construct a dedicated facility to replace the special unit were announced by the government in 2004, and the corresponding legislation was adopted in 2007.<sup>56</sup> The official reasons for opening the centre were the need to halt the policy of holding migrants in penal facilities, insufficient capacity and the impossibility of confining women in the special unit, and the need to improve detention conditions.<sup>57</sup> During its 2015 visit, the European Committee for the Prevention of Torture (CPT) commended the government for replacing the special unit with a dedicated centre, which it had recommended previously.<sup>58</sup>

The Findel facility, which rarely operates at full capacity, has a capacity of 88.<sup>59</sup> There are two units for men with a total capacity of 44 (Unit A consisting of 16 single rooms of approximately 8 square metres, including sanitary facilities, and Unit B consisting of 14 double rooms of approximately 9 square metres, including sanitary facilities); one unit for women with a capacity of 16 (16 single rooms); and a family unit with a capacity of 28 (14 double rooms).<sup>60</sup> Within the family unit, there are doors connecting two rooms, enabling the unit to house families of four persons. According to official information, the centre confines an average of 15 women and 23 families each year. With a small number of female detainees, the management of the centre

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(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) du 28 janvier au 2 février 2015, CPT/Inf (2015) 30," September 2015, <https://www.coe.int/en/web/cpt/luxembourg>; University of Luxembourg (EMN National Contact Point Luxembourg), University of Luxembourg (EMN National Contact Point Luxembourg), "The Use of Detention and Alternatives to Detention in the Context of Immigration Policies in Luxembourg," 2014, <https://bit.ly/2G1zycp>

<sup>55</sup> Jesuit Refugee Service, "Luxembourg country profile," August 2008.

<sup>56</sup> *Ministère des Affaires Etrangères et de l'Immigration*, "Rapport d'activité 2008," June 2009, <https://bit.ly/2qfhM6a>

<sup>57</sup> *L'Essentiel*, "Schmit: les retenus 'auront plus de liberté," *L'Essentiel*, 1 December 2008, <http://www.lesessentiel.lu/fr/luxembourg/story/Schmit-les-retenus-auront-plus-de-liberte--28983546>

<sup>58</sup> European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT), "Rapport au Gouvernement du Grand-Duché de Luxembourg relative 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) du 28 janvier au 2 février 2015, CPT/Inf (2015) 30," September 2015, <https://www.coe.int/en/web/cpt/luxembourg>

<sup>59</sup> 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) du 28 janvier au 2 février 2015, CPT/Inf (2015) 30," September 2015, <https://www.coe.int/en/web/cpt/luxembourg>; University of Luxembourg (EMN National Contact Point Luxembourg), "The Use of Detention and Alternatives to Detention in the Context of Immigration Policies in Luxembourg," 2014, <https://bit.ly/2G1zycp>

<sup>60</sup> University of Luxembourg (EMN National Contact Point Luxembourg), "The Effectiveness of Return in EU Member States: Challenges and Good Practices Linked to EU Rules and Standards: Luxembourg," 2017, [https://ec.europa.eu/home-affairs/sites/homeaffairs/files/18a\\_luxembourg\\_effectiveness\\_of\\_return\\_final\\_en.pdf](https://ec.europa.eu/home-affairs/sites/homeaffairs/files/18a_luxembourg_effectiveness_of_return_final_en.pdf); 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) du 28 janvier au 2 février 2015, CPT/Inf (2015) 30," September 2015, <https://www.coe.int/en/web/cpt/luxembourg>

thus tends to place women in the family unit in order to allocate the vacant women's unit to men. The centre also has two isolation rooms.

The CPT and Ombudswoman have noted that the **material conditions and the regime of activities** were, overall, good—in terms of equipment (beds, table and chair, sanitary block in stainless steel, TV and radio), ventilation, and access to natural light. Yet, as the CPT observed, the sanitary blocks in some cells—including double cells—were not adequately separated from the rest of the room (the delegation observed the improvised use of curtains to screen off the blocks). In this respect, the committee welcomed the Director's decision to place just one person in a double room as a general rule, and encouraged the authorities to continue this policy. According to the committee, sanitary facilities should be permanently partitioned if it were necessary to place more than one person in the double rooms.<sup>61</sup>

In terms of the regime in the centre, cells are locked between 21.00 and 07.00. Given the small size of cells, this time frame was found to be too restrictive by the Ombudswoman, who instead recommended that cells be locked at 23.00.<sup>62</sup> The CPT, meanwhile, applauded the wide range of activities available for detainees. During the day, they can access their unit's communal room (equipped with a kitchen and games), outdoor yard (equipped with two benches), and showers. Access to the activities room (which includes a gym, library, computer room, and games room) is also available and under surveillance. Literacy and language classes, as well as artistic activities, are regularly organised by the centre or by external bodies. However, the CPT regretted that the outdoor yards are not equipped with any protection in case of bad weather or excessive heat, and recommended remedying this shortcoming.<sup>63</sup>

Upon admission, detainees are subject to **body searches**. The search is carried out in a special room by a detention officer and a private agent of the same gender as the individual concerned. Detainees are not required to remove their underwear, nor are they subject to an intimate search. Yet, the Ombudswomen urged the authorities to follow the CPT's new rules on body searches, which require one to undress in two steps (first upper part and later lower part, to avoid that detainee is completely naked).<sup>64</sup>

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<sup>61</sup> European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT), "*Rapport au Gouvernement du Grand-Duché de Luxembourg 21 relative 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) du 28 janvier au 2 février 2015*, CPT/Inf (2015) 30," September 2015, <https://www.coe.int/en/web/cpt/luxembourg>; Ombudsman, "*Centre de Rétention*," 2014, <http://www.ombudsman.lu/uploads/RV/RV8.zip>

<sup>62</sup> Ombudsman, "*Centre de Rétention*," 2014, <http://www.ombudsman.lu/uploads/RV/RV8.zip>

<sup>63</sup> 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) du 28 janvier au 2 février 2015*, CPT/Inf (2015) 30," September 2015, <https://www.coe.int/en/web/cpt/luxembourg>

<sup>64</sup> Ombudsman, "*Centre de Rétention*," 2014, <http://www.ombudsman.lu/uploads/RV/RV8.zip>

The CPT also found that the centre offers adequate **health services**. The centre has well-equipped medical and dental care rooms, and a general practitioner or nurse visits the centre on a daily basis during the working week. A nurse is also on call during the weekends for admission checks, and consultations with specialists are organised if necessary at the hospital. Psychiatric consultations are held one morning a week, and a psychiatric nurse is present for five hours each week. A dentist visits the centre once a month or upon request. According to the government, medical personnel can make use of interpretation assistance from the Red Cross, which is paid for by the centre, based on an agreement between the two bodies.<sup>65</sup> The Ombudswoman did, however, express her concern that detention personnel are in charge of the distribution of medication at the weekend.<sup>66</sup>

Upon admission, all detainees are examined within 24 hours—first by a nurse and a psychiatric nurse, then by a doctor.<sup>67</sup> Tests for infectious diseases are systematically proposed and a medical file is opened for each detainee. However, the Ombudswoman noted with concern that if a detainee refuses to undergo a blood test to verify the presence of infectious diseases—even if they show no clinical signs of an infectious or contagious disease—they will be subject to protective isolation. She thus urged the authorities to immediately end this practice.<sup>68</sup> The CPT also noted that injuries are described superficially or not at all in medical records, while they are recorded in administrative files. The committee recommended that reports drawn up after medical examinations contain a comprehensive description of objective medical findings, statements made by the individual concerned, and the health professional's observations.<sup>69</sup>

In terms of medical confidentiality, the CPT observed that overall, it appears to be respected. Consultations take place in the medical office without the presence of surveillance staff, unless expressly requested by health personnel. However, the CPT was concerned that staff are sometimes present during medical tests upon admission, and that the cabinet containing detainee medical records is not systematically locked and is therefore accessible to non-medical personnel. The committee therefore recommended that the authorities improve the confidentiality of medical records and ensure that all medical examinations are conducted out of hearing and, unless specifically requested by the doctor concerned in a particular

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<sup>65</sup> Government of Luxembourg, "Réponse du Gouvernement du Grand-Duché de Luxembourg au rapport du Comité européen pour la prévention de la torture et des peines ou traitements inhumains ou dégradants (CPT) relatif à sa visite effectuée au Luxembourg du 28 janvier au 2 février 2015, CPT/Inf (2016) 15," April 2016, <https://www.coe.int/en/web/cpt/luxembourg>

<sup>66</sup> Ombudsman, "Centre de Rétention," 2014, <http://www.ombudsman.lu/uploads/RV/RV8.zip>

<sup>67</sup> Ombudsman, "Centre de Rétention," 2014, <http://www.ombudsman.lu/uploads/RV/RV8.zip>

<sup>68</sup> Ombudsman, "Centre de Rétention," 2014, <http://www.ombudsman.lu/uploads/RV/RV8.zip>

<sup>69</sup> 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) du 28 janvier au 2 février 2015, CPT/Inf (2015) 30," September 2015, <https://www.coe.int/en/web/cpt/luxembourg>

case, out of sight of non-medical staff.<sup>70</sup> In response, the government explained that in principle, and unless medical personnel expressly request otherwise, medical consultations take place out of hearing of third parties. Moreover, it is systematically ensured that medical records are kept in locked cabinets and are only accessible to medical services.<sup>71</sup>

The centre uses both public **personnel** and employees from a private company: 27 state-provided guardians work in direct contact with detainees; 19 private agents are in charge of security on the premises including the external perimeter, the management of visits, transfers within the centre for the activities, and surveillance of activities. There are also three social assistants and a psychologist. State-employed officers receive special training. This is also available to private security agents, but aside from a self-defence course, they have rarely taken it. The CPT encouraged the authorities to ensure adequate training for all staff in the detention centre who have direct contact with foreign nationals.<sup>72</sup>

In 2011, the European Commission against Racism (ECRI) recommended that staff at the centre have sufficient linguistic and legal knowledge, and that they receive adequate training in these fields.<sup>73</sup> The commission chose this recommendation as one for which it requested priority implementation. In 2014, as interim follow-up to these recommendations, the commission concluded that these recommendations had been implemented. The authorities informed ECRI that before the centre was opened, the detention centre's staff members received initial training in methods and techniques for intercultural communication and suicide prevention, human rights, and the legal and regulatory framework concerning detention, asylum, and immigration. There is also a compulsory on-going training programme covering intercultural communication, stress management, language learning, and the prevention and management of physical and psychological aggression in the workplace.<sup>74</sup>

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<sup>70</sup> 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) du 28 janvier au 2 février 2015, CPT/Inf (2015) 30," September 2015, <https://www.coe.int/en/web/cpt/luxembourg>

<sup>71</sup> Government of Luxembourg, "Réponse du Gouvernement du Grand-Duché de Luxembourg au rapport du Comité européen pour la prévention de la torture et des peines ou traitements inhumains ou dégradants (CPT) relatif à sa visite effectuée au Luxembourg du 28 janvier au 2 février 2015, CPT/Inf (2016) 15," April 2016, <https://www.coe.int/en/web/cpt/luxembourg>

<sup>72</sup> European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT), "Rapport au Gouvernement du Grand-Duché de Luxembourg relative 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) du 28 janvier au 2 février 2015, CPT/Inf (2015) 30," September 2015, <https://www.coe.int/en/web/cpt/luxembourg>

<sup>73</sup> European Commission against Racism and Intolerance (ECRI), "ECRI Report on Luxembourg: Fourth Monitoring Cycle, CRI(2012)4," December 2011, [https://www.coe.int/t/dghl/monitoring/ecri/Country-by-country/Luxembourg/Luxembourg\\_CBC\\_en.asp](https://www.coe.int/t/dghl/monitoring/ecri/Country-by-country/Luxembourg/Luxembourg_CBC_en.asp)

<sup>74</sup> European Commission against Racism and Intolerance (ECRI), "ECRI Conclusions on the Implementation of the Recommendations in Respect of Luxembourg Subject to Interim Follow-Up, CRI(2015)6," December 2014, [https://www.coe.int/t/dghl/monitoring/ecri/Country-by-country/Luxembourg/Luxembourg\\_CBC\\_en.asp](https://www.coe.int/t/dghl/monitoring/ecri/Country-by-country/Luxembourg/Luxembourg_CBC_en.asp)



Both the CPT and the Ombudswoman commended the authorities for the centre's arrangements to ensure that detainees have **contact with the outside world**. Detainees can receive one-hour visits on a daily basis. The centre has several visiting rooms, which are not monitored by cameras, including one for conjugal visits. Foreign nationals also have access to computers connected to the internet.<sup>75</sup> While detainees are not allowed to keep their own phones,<sup>76</sup> each unit has three wireless phones which are accessible during the day, except at meal times. Every week, detainees receive a telephone card worth 10 EUR.<sup>77</sup> As detainees can only use the phones in the living rooms of their units, many have complained of a lack of privacy during their phone calls.<sup>78</sup> In 2016, the government informed the CPT that the centre had taken steps to install telephone boxes in communal rooms.<sup>79</sup>

The Immigration Law foresees several **disciplinary sanctions**, including warnings, the exclusion of daily allowances, and isolation for up to five consecutive days (Article 19-20). Disciplinary isolation (called "confinement to the room") usually takes place in an ordinary room or, in exceptional cases, in one of the two isolation rooms. Detainees placed in disciplinary isolation have access to reading materials as well as a one-hour walk outdoors. According to legislation, communication with the outside world can be forbidden. This was noted by the CPT, who stressed that a detainee's contact with the outside world should never be prohibited as a form of punishment; it could only be limited. It could only be limited if the disciplinary offence related precisely to the person's contact with the outside world. The committee recommended amending the legislation accordingly.<sup>80</sup>

<sup>75</sup> 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) du 28 janvier au 2 février 2015*, CPT/Inf (2015) 30," September 2015, <https://www.coe.int/en/web/cpt/luxembourg>. Ombudsman, "*Centre de Rétention*," 2014, <http://www.ombudsman.lu/uploads/RV/RV8.zip>

<sup>76</sup> University of Luxembourg (EMN National Contact Point Luxembourg), "The Use of Detention and Alternatives to Detention in the Context of Immigration Policies in Luxembourg," 2014, <https://bit.ly/2GIZycp>

<sup>77</sup> 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) du 28 janvier au 2 février 2015*, CPT/Inf (2015) 30," September 2015, <https://www.coe.int/en/web/cpt/luxembourg>; Ombudsman, "*Centre de Rétention*," 2014, <http://www.ombudsman.lu/uploads/RV/RV8.zip>

<sup>78</sup> 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) du 28 janvier au 2 février 2015*, CPT/Inf (2015) 30," September 2015, <https://www.coe.int/en/web/cpt/luxembourg>

<sup>79</sup> Government of Luxembourg, "*Réponse du Gouvernement du Grand-Duché de Luxembourg au rapport du Comité européen pour la prévention de la torture et des peines ou traitements inhumains ou dégradants (CPT) relatif à sa visite effectuée au Luxembourg du 28 janvier au 2 février 2015*, CPT/Inf (2016) 15," April 2016, <https://www.coe.int/en/web/cpt/luxembourg>

<sup>80</sup> 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) du 28 janvier au 2 février 2015*, CPT/Inf (2015) 30," September 2015, <https://www.coe.int/en/web/cpt/luxembourg>

The isolation rooms, which are approximately 10-12 square metres each, are equipped with a bed (concrete base) with mattress, sanitary block in stainless steel, and a CCTV camera. Detainees are placed there for up to five days for disciplinary isolation and 24 hours for security reasons.<sup>81</sup> The CPT observed that the rooms do not have sufficient access to daylight or an appeal system. The delegation was informed that the guards were simply leaving the door of their office open in order to hear any calls from the detainees. The committee thus called on the authorities to remedy these deficiencies.

With regard to disciplinary proceedings, the CPT expressed concern that the country's law requires a doctor to provide a certificate confirming whether a detainee is fit enough for isolation.<sup>82</sup> In particular, the committee stressed that such a requirement may impair doctor-patient relationships, and that doctors should thus not be involved in decisions regarding isolation.<sup>83</sup> (This is not unique to Luxembourg. In [Norway](#), for example, the country's Ombudsman recently criticised procedures involving doctors in decisions regarding the placement of detainees in isolation.) In response, the Luxembourg government stated that although a doctor's certificate is still provided for in law, it is not required in practice.<sup>84</sup>

**3.2b Luxembourg Airport Transit Zone (Waiting Zone).** Non-citizens refused entry to Luxembourg can be detained at the Luxembourg Airport transit zone until their removal via the next available flight. The maximum detention period in the facility is 48 hours. If this period is exceeded, the individual is transferred to Findel (Immigration Law, Article 119(1)-(2)). This detention time frame is respected in practice.<sup>85</sup> The "waiting area" for foreigners is located on the lower level of the new building in the airport transit area, and is connected to a border guard office. It is

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<sup>81</sup> 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) du 28 janvier au 2 février 2015*, CPT/Inf (2015) 30," September 2015, <https://www.coe.int/en/web/cpt/luxembourg>

<sup>82</sup> European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT), "*Rapport au Gouvernement du Grand-Duché de Luxembourg 25 relative 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) du 28 janvier au 2 février 2015*, CPT/Inf (2015) 30," September 2015, <https://www.coe.int/en/web/cpt/luxembourg>

<sup>83</sup> 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) 22 au 27 avril 2009*, CPT/Inf (2010) 31," October 2010, <https://www.coe.int/en/web/cpt/luxembourg>

<sup>84</sup> Government of Luxembourg, "*Réponse du Gouvernement du Grand-Duché de Luxembourg au rapport du Comité européen pour la prévention de la torture et des peines ou traitements inhumains ou dégradants (CPT) relatif à sa visite effectuée au Luxembourg du 28 janvier au 2 février 2015*, CPT/Inf (2016) 15," April 2016, <https://www.coe.int/en/web/cpt/luxembourg>

<sup>85</sup> 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) du 28 janvier au 2 février 2015*, CPT/Inf (2015) 30," September 2015, <https://www.coe.int/en/web/cpt/luxembourg>

comprised of a waiting room, which is under video surveillance and is equipped with a table and chairs; two bedrooms with three beds each; and three bathrooms.<sup>86</sup> During its 2015 visit, the CPT found that the material conditions were good. Two people were detained in the waiting zone in January 2015.<sup>87</sup>

During its 2015 visit, the CPT commended the authorities for having implemented its recommendations formulated during its 2009 visit, notably to provide bed sheets, blankets, and personal hygiene products, and to put in place a detention register. Yet, the committee noted shortcomings in detention records. Under Article 119(6) of the Immigration Law, airport control agents must draw up a record (*procès-verbal*) on every non-citizen held in the transit zone. This must be signed by the person concerned, and if they refuse to do so, reasons must be provided. The record—which detainees must receive a copy of—sets out the legal basis for detention, the date of arrest and release, and the person's right to communicate with third persons. The CPT found that records frequently lacked the signature of the foreign national involved, as well as occasionally lacking the signature of the responsible personnel, and also lacked information about the right to access a doctor. The CPT recommended that the authorities take necessary measures to remedy these shortcomings.<sup>88</sup>

### 3.3 Other facilities. Emergency Housing Structure of Kirchberg.

**3.3a. The Emergency Housing Structure of Kirchberg (*Structure d'hébergement d'urgence Kirchberg, or SHUK*).** The non-secure SHUK was opened in April 2017 and is operated by the Return Department of the Directorate of Immigration. Consisting of a series of tents placed in Hall 6 of the Luxexpo, the SHUK is considered a temporary facility and has a capacity of 216.<sup>89</sup> Nearly 600 people were accommodated at the facility in 2017.<sup>90</sup>

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<sup>86</sup> 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) 22 au 27 avril 2009*, CPT/Inf (2010) 31, October 2010," <https://www.coe.int/en/web/cpt/luxembourg>

<sup>87</sup> 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) du 28 janvier au 2 février 2015*, CPT/Inf (2015) 30," September 2015, <https://www.coe.int/en/web/cpt/luxembourg>

<sup>88</sup> 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) du 28 janvier au 2 février 2015*, CPT/Inf (2015) 30," September 2015, <https://www.coe.int/en/web/cpt/luxembourg>

<sup>89</sup> University of Luxembourg (EMN National Contact Point Luxembourg), "The Effectiveness of Return in EU Member States: Challenges and Good Practices Linked to EU Rules and Standards: Luxembourg," 2017, [https://ec.europa.eu/home-affairs/sites/homeaffairs/files/18a\\_luxembourg\\_effectiveness\\_of\\_return\\_final\\_en.pdf](https://ec.europa.eu/home-affairs/sites/homeaffairs/files/18a_luxembourg_effectiveness_of_return_final_en.pdf)

<sup>90</sup> *Ministère des Affaires Étrangères et Européennes*, "*Rapport d'activité 2017*," 2018, <https://gouvernement.lu/dam-assets/fr/publications/rapport-activite/minist-affaires-etrangeres-europeennes/2017-rapport-affaires-etrangeres/rapport-d-activite-2017-maee.pdf>

Reportedly, the SHUK was set up in response to the high number of Dublin cases and rejected applicants for international protection who were being accommodated within regular reception facilities. The facility accommodates single men in the Dublin procedure before their transfer to the responsible state. Initially, the centre held only those whose transfer was agreed on by the responsible country, but later, all non-citizens registered in [Eurodac](#) started to be placed in the SHUK. Those who represent a risk of absconding are placed in Findel detention centre.

Those placed in the SHUK must return to the facility at night (20.00 – 08.00). Because of its day-time open-door policy, the Global Detention Project does not code this facility as a secure detention centre. However, officially, those accommodated at the SHUK are considered to be under house arrest. The maximum amount of time a person can be accommodated at the facility is six months. The administration of the Findel centre manages the SHUK and posts some of its staff here, as well as hiring additional staff. There are eight security agents permanently based inside the facility and at the entrance.<sup>91</sup> Non-citizens placed in the SHUK have complained about regular searches of their bags and tents. Civil society organisations have pointed to insufficient medical care.<sup>92</sup>

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<sup>91</sup> University of Luxembourg (EMN National Contact Point Luxembourg), "The Effectiveness of Return in EU Member States: Challenges and Good Practices Linked to EU Rules and Standards: Luxembourg," 2017, [https://ec.europa.eu/home-affairs/sites/homeaffairs/files/18a\\_luxembourg\\_effectiveness\\_of\\_return\\_final\\_en.pdf](https://ec.europa.eu/home-affairs/sites/homeaffairs/files/18a_luxembourg_effectiveness_of_return_final_en.pdf)

<sup>92</sup> G. Chassaing, "Réfugiés: à la Shuk, 'on nous traite comme des criminels'," *Le Quotidien*, 15 January 2018, <http://www.lequotidien.lu/a-la-une/refugies-a-la-shuk-on-nous-traite-comme-des-criminels/>



[www.globaldetentionproject.org](http://www.globaldetentionproject.org)