

The Prison System in Luxembourg

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Presentation in two parts:

A – The system as it is working today

B – The system as it is foreseen by the Penitentiary Reform

A – The system as it is working today / 1

➤ **Applicable law in force:**

- the law of 27th July 1997 on the reorganization of the Penitentiary Administration (*“loi du 27 juillet 1997 portant réorganisation de l’administration pénitentiaire”*)
- other specific legal provisions, *inter alia* of the Penal Code, the Criminal Procedure Code and the law of 7th March 1980 on the organization of the Judiciary

A – The system as it is working today / 2

➤ **The organizational structure:**

1) The “main” Prison: **Penitentiary Center of Luxembourg (CPL) in Schrassig:**

- Director and 2 Deputy directors
- on 27th June: total of 616 inmates (+/- 600 places) / 295 prisoners (= definitely sentenced), 320 pretrial detainees (*and who is missing?*) / 353 LU-residents, 263 non LU-residents / 155 LU-citizens, 461 non LU-citizens (380 EU-citizens) / 580 men, 35 women
- Drug related offences: 66 prisoners, 150 pretrial detainees !

A – The system as it is working today / 3

2) The “half open” Prison: **Penitentiary Center of Givenich (CPG):**

- Director with one Deputy director
- a Prison without walls and fences, but nevertheless a Prison: on 27th June: total of 74 inmates / only prisoners, no pretrial detainees / 69 LU-residents, 5 non LU-residents / 31 LU-citizens, 43 non LU-citizens, 69 men, 5 women / 40 prisoners in “normal regime” = working and sleeping in prison, 34 prisoners in “half free regime (“*semi-liberté*”) = sleeping in prison, working outside during the day for private employers
- Drug related offences: 12 prisoners

A – The system as it is working today / 4

3) The “overhead” of the 2 Prisons:

- The Prosecutor General of the Grand-Duchy of Luxembourg, with a specifically delegated Advocate general (member of his office): besides the “normal” attributions as head of the penal prosecution in Luxembourg **takes all prison related decisions**, as well as the execution of the sentence itself (beginning and end of sentence, alternative measures like electronic monitoring, work in the general interest, etc.) but also all administrative decisions (staff, budget, etc.)
- The Minister of Justice, political decisions and responsibility

A – The system as it is working today / 5

➤ **Principal problematic issues of the system:**

- Structural system is stemming from the 1960s, but social conditions and legal environment has changed too much, nationally and internationally
- Basically **no judicial remedies** for prisoners against the decisions taken by the Prosecutor General and his Advocate general, except for minors (administrative) issues being in the competence of the administrative Courts
- Difficulties to separate the “two heads” of the Prosecutor General as (i) part of the judicial power and (ii) Chief of the Penitentiary Administration, as part of the executive power

B – The system as it is foreseen by the Penitentiary Reform/1

➤ **Main reasons for the reform:**

- Overcrowded prisons, construction of a 3rd prison has become inevitable
- Organizational structure of the 1960s definitively not appropriate anymore to manage 3 prisons
- A range of other legal issues (no judicial remedy, lacking of procedures and definitions of missions of the penitentiary system, rights of prisoners, etc.

B – The system as it is foreseen by the Penitentiary Reform/2

➤ **Main goals and issues of the Reform:**

- Better and legal definition of the missions of the Penitentiary system → **social reintegration of prisoners**, preparing the return into society by the voluntary plan of insertion (*“plan volontaire d’insertion”*), tailor made and “living” plan, elaborated on a cooperative basis between the Prisons and the prisoner
- **Better and more precise distribution of attributions** and missions of the Prosecutor General and his delegated Advocate general on the one hand, and the new future Director of the Penitentiary Administration on the other hand:

B – The system as it is foreseen by the Penitentiary Reform/3

- the **Prosecutor General and his delegated Advocate general** stay in charge for all decisions entailing the “entry or the exit” of the prisoner from the prison, f. ex. start of the prison sentence, release on parole, electronic monitoring, etc.
- But the **Penitentiary Administration** will become competent for all decisions related to “in-house” issues, f. ex. change of prison cell, disciplinary sanctions, visitors, change of prison regime, work etc.
 - Separation of competences, being now all in the hands of the Prosecutor General, between the Prosecutor General and the Penitentiary Administration !

B – The system as it is foreseen by the Penitentiary Reform/4

- Last but certainly not least:

Creation of a completely new and specific court, the “Chamber for the application of sanctions” (“***Chambre de l’application des peines***”), **competent for all decisions**, those taken by the Prosecutor General and his Advocate general concerning prisoners, as well as those taken by the Penitentiary Administration concerning all detainees, prisoners and pretrial detainees

Will be part of the Court of Appeal, three sitting judges, one instance



Thank you very much for your attention !

Any questions ?

For later questions or a copy of the presentation:

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