

**Response of the Government
of the Principality of Liechtenstein
to the report of the European Committee
for the Prevention of Torture and Inhuman
or Degrading Treatment or Punishment (CPT)
on its visit to Liechtenstein**

from 31 May to 2 June 1999

The Government of the Principality of Liechtenstein has requested the publication of the CPT's report on the visit to Liechtenstein from 31 May to 2 June 1999 (see CPT/Inf (2002) 33) and of its response. The response, translated into English by the Liechtenstein authorities, is set out in this document.

The German text of the response can be found on the CPT's website (www.cpt.coe.int).

Strasbourg, 27 November 2002

Report

**to the European Committee
for the Prevention of Torture and
Inhuman or Degrading
Treatment or Punishment
(CPT)**

**on the questions,
recommendations and comments
arisen during the visit
to Vaduz Prison and Police Station
from 31st May to 2nd June, 1999**

The Government of the Principality of Liechtenstein wishes to give the following response to the questions, recommendations and comments stated in the report by the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) dated 9th December, 1999.

B. Police custody

1. Preliminary remarks

8. Criminal suspects under detention by the police without a written instruction by the investigating judge are presented to the latter within 48 hours. Those criminal suspects under detention due to a judge's written order are presented to the investigating judge within 24 hours. Only if this is not possible, the presentation has to take place within 3 days, and the reasons for the delay have to be stated in the minutes. A presentation on weekends is possible, since there is always a judge on attendance. Therefore the longer period is hardly ever necessary in practice, only in rare, exceptional cases where an interpreter for an exotic language is needed.

It is a misunderstanding that the detained are kept in a cell located within the police station adjacent to the prison for prisoners on remand. Also in cases of preliminary imprisonment, accommodation takes place in a cell of the prison for prisoners on remand. Furthermore, a difference has to be made between the custody of prisoners on remand and the custody of foreign nationals as a result of the asylum procedure. However, due to the provisions of the law on aliens, the detention of foreign nationals does not occur often.

Foreign nationals may be detained under certain conditions governed by law in order to ensure the proper conduct of a removal procedure or the execution of a valid removal order. They are not kept in police custody but in administrative custody. Accommodation at first takes place in the multi-occupancy cell (cf. B.2.9.), which is also located within the prison for prisoners on remand. The multi-occupancy cell is not used for imprisonment on remand.

In these cases, a judge assesses the legality and adequacy of the imprisonment within 96 hours. The detention can last up to 3 months. If a legal removal order exists and there are exceptional conditions making impossible its execution, imprisonment can be extended up to a maximum of 6 months with the judge's approval according to Swiss regulations which are valid also for Liechtenstein due to an agreement signed by the Principality of Liechtenstein and Switzerland on 6th November, 1963.

2. Conditions of detention

11. The number of beds in the multi-occupancy cell has been reduced from 15 to 9. In those rare cases where more than 9 people are detained at once, accommodation takes place in the prison for prisoners on remand.

12. The observation cell, which is mainly used for sobering up, has been equipped with access to running water. A washing facility is located just beneath the observation cell. There already was a register for the use of this cell, which could not be printed as a list. This logistical problem has been solved in the meantime.

3. Safeguards against the ill-treatment of persons deprived of their liberty

14. There are plans concerning the adoption of a new provision recognising the right of informing a person of the prisoner's choice immediately after entering the prison for prisoners on remand. This would apply to prisoners on remand, prisoners in police custody and prisoners in administrative custody indifferently. Delays shall only be possible for reasons of prosecution. In this case, a complaint to the administrative authorities is possible.

15. The prisoner is informed of the right to choose a lawyer at the latest in the course of the first interrogation by the court. If the "Beschuldigter" cannot afford a lawyer, he/she may apply for one free of charge. The presence of a defence already during interrogation by the police is not provided for. However, there is always the option of not making any statement and insisting on talking to a lawyer first.

The detained "Beschuldigter" can meet his or her defence without an official being present, except in cases of danger of collusion, where the Liechtenstein Code of Criminal Procedure says that a court official has to take part in the conversations of the "Beschuldigter" and the defence until the indictment takes place. This rule is normally not applied any more.

16. According to Article 9 Paragraph 3 of the Law on the execution of sentences, a prisoner shall be subject to medical examination within 24 hours after imprisonment. Organisational measures ensure that this regulation is observed and an M.D. or another professional (i.e. a nurse) carries out the examination. The examination procedure and its result are documented in a standardised way.

According to Article 6 Paragraph 3 Subparagraph b of the Law on medical treatment and nursing, one of the tasks of the "Landesphysikus" (general practitioner working for the Government) is to give medical assistance to prisoners granting access to the doctor of the prisoner's choice. This rule has been practised so far. The free choice of doctors is limited as the state has to run for the cost. As a rule, the free choice of a doctor is limited to the national territory.

17. At imprisonment, a register of the prisoner's possessions is made and signed by the prisoner. According to the draft law under discussion (see Paragraph 31) he/she will also have to sign that he/she has received an information leaflet about his or her rights as a suspect or "Beschuldigter".

C. Vaduz Prison

1. Preliminary remarks

19. During the interrogation by the police, the suspect is confronted with the charge. Each prisoner is informed on the reason for his or her imprisonment during the first interrogation by the investigating judge. If there is doubt whether the interrogated person has sufficient language knowledge, an interpreter is present.

The planned information leaflet will contain basic information on the procedure. Besides, the defence has the task of advising the prisoner on procedural details.

2. Regime

21. All educational activities are based on the principle of prisoners' volunteering and self-responsibility. Prisoners wanting to take language courses or make use of distance learning are being supported in their efforts.

At this point it has to be stressed that Vaduz Prison is mainly meant for imprisonment on remand and not for executing prison sentences. In such a prison, normally no work for prisoners is scheduled. As all prison sentences exceeding a term of 2 years are executed in Austria, all long-term rehabilitation measures are taken there. If shorter prison sentences are executed in Vaduz Prison, keeping the prisoner's social environment intact is the main short-term rehabilitation measure, a task in which the Office for Social Services is of great help.

At the time of the Committee's visit, the table normally used for table tennis was stored at a petrol station nearby due to construction activities (restoration of the yard). When these activities were finished in autumn of 1999, the table was installed in the yard again and can therefore be used again every day. The sports equipment also includes a home trainer, a rowing machine and a boxing sack.

The availability of books in foreign languages will be improved. The relevant costs have been earmarked in the 2001 budget.

22. Solitary confinement meaning isolation does not exist in Liechtenstein as there is no legal basis for it. Visits by the prisoner's relatives are always possible; they are only supervised as long as it may be necessary for investigation purposes. Also contact with the lawyer, doctor, priest or social worker is always ensured. Limitation of contact with other prisoners or certain persons outside the prison does not mean isolation. Therefore we would prefer the term 'imprisonment with restrictions' instead of solitary confinement in the following explanations.

Liechtenstein's special situation due to the existence of only one prison has to be stated in this respect. This means that contact to certain other prisoners has to be restricted more often than it were the case if these prisoners could be accommodated in different prisons in order to make contact between them impossible.

There are continuous efforts to find working opportunities for prisoners, but this also depends on the labour market situation.

23. The detainee mentioned had been kept in imprisonment with restrictions for 6 months. During this time he had the same opportunity of normal visits and written contacts as any other prisoner. The visits register card shows that he received 32 visits by his relatives, 14 by his lawyer, 4 by a psychologist and 12 by a theologian during these six months. The detainee mentioned expressed the wish of not being given a job as he had enough to do studying documents.

As it has already been explained, currently there is no legal basis for isolation in prison. Imprisonment with restrictions concerning the contact to other prisoners can be ordered by the court if there is danger of collusion or by the prison authorities if there is danger for the internal order or security or in order to protect the interests of certain prisoners.

Imprisonment with restrictions ordered by the court may last up to 2 months if the prisoner is in prison on remand due to danger of collusion only and up to 6 months if there is any additional reason for imprisonment. This term can only be extended if approved by the High Court. The prisoner on remand may file a complaint to the High Court because of the restriction of contact with other prisoners as well as because of all other decisions taken and ordered by the court.

The imprisonment with restrictions has to be stopped by the prison authorities as soon as there is no more danger for the order or security nor any other reason. A complaint against orders by the prison authorities can be lodged with the Administrative Court.

Additionally it has to be stated that in principle, written contact is not restricted at all. Only exceptionally letters may be held back if there is danger of undermining the reason for imprisonment. Letters to the authorities must not be held back. In practice, two 30 minutes visits per week are allowed regularly – this is twice the legal minimum.

Statistics on imprisonment with restrictions 1998/1999:

(people kept in imprisonment with restrictions in principle have normal visits and written contacts)

No.	entry	days in prison	No.	entry	days in prison
1.	10.02.98	143	15.	15.09.98	108
2.	31.03.98	4	16.	25.09.98	12
3.	01.04.98	147	17.	22.10.98	58
4.	02.04.98	90	18.	05.11.98	19
5.	14.04.98	92	19.	16.11.98	25
6.	17.04.98	29	20.	17.05.99	9
7.	25.04.98	45	21.	26.05.99	210
8.	29.05.98	11	22.	26.05.99	56
9.	23.06.98	3	23.	27.05.99	5
10.	01.07.98	104	24.	28.06.99	115
11.	14.08.97	180	25.	24.08.99	3
12.	15.07.98	124	26.	26.08.99	4
13.	26.07.98	46	27.	08.10.99	75
14.	24.08.98	11			

* This prisoner was an exception. Without a decision by the High Court, imprisonment with restrictions is possible for a maximum of 6 months or 180 days. This prisoner was imprisoned with restrictions for 30 days more. He was one of a group of three offenders imprisoned in Vaduz Prison. After 6 months there still was danger of collusion, but the date of the final court hearing was known to be in short time. The restrictions could be withdrawn for two of the prisoners. The third prisoner could not be granted contact with other prisoners as there are only two community rooms in Vaduz Prison. The prisoner was not transferred to Feldkirch Prison in Austria as the date of the final court hearing was already known and the organisation and implementation of the transfer procedure would also have lasted about 3 weeks.

3. Health care

a. Staff

24. For the prisoners' assistance there is the Therapeutic Service of the Office for Social Services, including 1 male psychiatrist, 1 female psychologist and 1 female M.D. who also is a psychotherapist, as well as the "Landesphysikus" and a female social worker employed by the Office for Social Services. Besides, there is another psychologist and another psychiatrist who do not always work in prisoners' assistance but can be called on demand at any time.

25. The suggestions have been noted and discussed by the working group with great interest. It is of the opinion that due to the small size of Vaduz Prison a daily interrogation of the patients by a nurse would be rather counterproductive (neurotisation). Nevertheless, it seems to make sense to ask prisoners about their health by an expert once a week, thereby ensuring the desired regularity.

b. Medical examination at entry

26. See explanations under B.3.16.

c. Prisoners kept in imprisonment with restrictions

27. So far, the prison staff used to inform the doctor immediately if changes in the prisoner's behaviour were noticed or if the prisoner asked for it.

Due note is taken of the fact that medical documentation has to be improved and that forecasts on continued imprisonment with restrictions have to be made if necessary. This necessity is supposed to be given if either the prisoner, the prison authorities or the court wants to have this kind of information.

4. Other issues of relevance

29. A female police officer has started her regular service.

30. Complaints about the police and prison staff can be brought forward at any time. Written complaints are passed on to the relevant authority unread. Normal legal remedy is possible in all cases of decisions.

31. The former working group "Assistance to Detainees and Probation" has been working both on a revision of the current execution regulations and the creation of a new Probation Assistance Act. The first drafts of a new execution law were available in 1994. Before the work could be finished with the help of an external expert, the chairperson of the working group resigned from its post within the state administration, causing a vacancy in the Ministry of Justice for some time. Therefore the activities of the working group came to a halt.

As a parliamentary commission had been formed in 1997 in addition to this working group in order to create a new Probation Assistance Act, finishing this act became the primary task of the working group, which started co-operating with the parliamentary commission. The report and the request for the creation of such an act were adopted and submitted to Parliament in November 1999.

In February 2000 the Government reactivated the working group renamed “Assistance to Detainees and Execution of Sentences”, now including three former members as well as a new chairperson and five new members. The new working group has already held three meetings.

32. The Government of the Principality of Liechtenstein has taken the appropriate steps.

33. The working groups have to present an annual report as every ministry has to make an abbreviated report of the results of its work for the joint annual Government report to Parliament. There is no current report by the former working group due to the facts explained under 31.