

£LUXEMBOURG

@Prolonged isolation of detainees in Schrassig prison

Amnesty International has received reports alleging that some prisoners in Schrassig prison (*Centre pénitentiaire de Schrassig*) have been kept in total isolation for prolonged periods of time, sometimes amounting to several years. The organization has raised these concerns with the authorities.

Summary of allegations

One prisoner currently being held in Schrassig prison (Jean-Marc Mahy, a Belgian national, born 26 April 1967) states in a letter received by Amnesty International in September 1991 that he was held in total isolation from April 1987 until March 1990. One other prisoner (Carlo Fett) is believed to have been held in isolation for 48 months, and two others (Nico Reisdorff and Joseph Bernardy) for 39 months.

Solitary confinement is imposed either for disciplinary reasons or in cases where prisoners are classed as dangerous. It is believed that the cases known to Amnesty International where prisoners have been placed in isolation for periods of several years fall into this second category.

According to other reports received by Amnesty International, prisoners in isolation spend 23 hours per day in their cells. For one hour per day they are transferred into another cell, open to the outside but covered by a wire mesh, where they are allowed to exercise alone. Amnesty International has learned that according to new regulations issued on 2 December 1991, prisoners known to have used drugs in the prison may be placed in solitary confinement for up to six months; prisoners found to be in possession of drugs may be placed in solitary confinement for up to eight months.

Amnesty International's concerns

Amnesty International is concerned that prolonged isolation may have serious effects on the physical and mental health of prisoners and may constitute cruel, inhuman or degrading treatment. Prisoners held in other countries in conditions similar to those described above have suffered both psychological and physical disorders, including emotional disturbances; impairment of concentration and ability to think; loss of reality; neuroses; sleep disturbances; headaches; dizziness; low blood pressure; and circulation and digestive problems.

Such prolonged solitary confinement which causes mental suffering violates international law. The Human Rights Committee in its General Comment No. 20 (44) has made clear that the prohibition of torture and cruel, inhuman or degrading treatment or punishment in Article 7 of the International Covenant on Civil and Political Rights, to which Luxembourg is a party, includes "acts that cause mental suffering to the victim" (paragraph 5) and that "prolonged solitary confinement of the detained or imprisoned person may amount to acts prohibited by article 7" (paragraph 6).

Indeed, the dangers of such isolation are widely recognised. For example, the European Commission of Human Rights has stated that:

"[t]he international literature on criminology and psychology indicates that isolation can be sufficient in itself gravely to impair physical and mental health. The following conditions may be diagnosed: chronic apathy, fatigue, emotional instability, difficulties of concentration, diminution of mental faculties, disorders of the neuro-vegetative system."¹

Similar findings have been reported in a 1977 Council of Europe publication entitled *Treatment of Long-Term Prisoners*.

Amnesty International's correspondence with the authorities

In March 1992 Amnesty International communicated its concerns to the Minister of Justice of Luxembourg. In particular the organization sought to establish:

- (1) the number of prisoners currently being held in prolonged isolation in Schrassig prison and the conditions of their imprisonment;
- (2) whether there are still circumstances under which prisoners may be kept in isolation for periods of several years, as happened until 1990 in at least four cases reported to Amnesty International;
- (3) whether prisoners held in prolonged isolation have a right to appeal against an order that they should be placed in solitary confinement and what mechanisms exist for their cases to be periodically reviewed;
- (4) whether prisoners held in prolonged isolation are regularly examined by the medical authorities and whether they have the right to be examined by a doctor of their own choice;

¹ Ruling of the Commission on the Applications Nos. 7572/76, 7578/76 and 7587/76 by Gudrun Ensslin, Andreas Baader and Jan Raspe.

(5) what steps are taken to alleviate the physical and psychological effects of isolation.

In August the Minister of Justice responded to Amnesty International's letter. He rejected the use of the term "prolonged isolation" and spoke instead of solitary confinement ("*régime cellulaire strict*"). The Minister stated that "the use of solitary confinement is sanctioned by article 3 of the Grand Ducal Regulation of 24.03.89 concerning the administration and the internal regime of prison establishments. [It] was explicitly defined in a directive of 17.03.87 signed by the Procurator General's representative and by the director of the Luxembourg Prison Service. This same directive has been approved by the Minister of Justice." ("*Le règlement grand-ducal du 24.03.89 concernant l'administration et le régime interne des établissements pénitentiaires prévoit dans son article 3 un régime cellulaire strict. Ce régime cellulaire strict fut défini explicitement dans une instruction de service du 17.03.87, signée par le délégué du Procureur Général d'Etat et par le Directeur du Centre Pénitentiaire de Luxembourg. Cette même instruction de service a trouvé l'approbation du Ministre de la Justice.*")

In response to specific points raised in Amnesty International's letter of March 1992, the Minister of Justice replied that:

(1) Two prisoners are currently being held in isolation in Schrassig prison, one is due for release on 18 August, the other on 18 September 1992. Both prisoners were placed in solitary confinement for attempting to escape.

It is unclear, however, from this response how much time each prisoner will have spent in total in isolation. In addition, Amnesty International has received information that a number of prisoners not referred to by the Luxembourg authorities are currently in isolation for using drugs. The organization has also been informed that one prisoner was recently placed in solitary confinement for a period of one year for striking a prison guard.

(2) No prisoner classified as dangerous has been placed in solitary confinement since 1990.

It is unclear from this response, however, whether periods of solitary confinement of several years are still a possibility.

(3) That an appeal against the imposition of solitary confinement can be made to the Procurator General's representative who can also, on his own initiative, modify an order to place a prisoner in solitary confinement issued by the prison director.

(4) That a review of the imposition of solitary confinement can be undertaken - either on the initiative of the prisoner, the prison director or the Procurator General's representative.

(5) That medical care of prisoners placed in solitary confinement is assured and that such prisoners have the right to be treated by a doctor of their own choice.

(6) That such prisoners are allowed to receive visits as normal and to have reading material, a radio and television in their cells.

Amnesty International's continuing concerns

In September 1992 Amnesty International wrote again to the Luxembourg authorities, repeating its concern about the use of what the organization believes it correctly describes as prolonged isolation. In particular Amnesty International requested clarification of points (1) and (2) (see above) from the Minister of Justice's response. Finally the organization asked for copies of the 1987 directive and of the 1989 regulation referred to by the Minister in his letter.