



## International Covenant on Civil and Political Rights

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### Human Rights Committee

#### List of issues prior to submission of the sixth periodic report of Belgium\*

##### A. General information on the national human rights situation, including new measures and developments relating to the implementation of the Covenant

1. Please provide information on the measures taken to implement the recommendations made in the Committee's most recent concluding observations (CCPR/C/BEL/CO/5). Please indicate what procedures are in place for the implementation of the Committee's Views under the Optional Protocol, and provide information on the measures taken to ensure full compliance with the Views adopted in respect of the State party (communication No. 1472/2006, *Sayadi and Vinck v. Belgium*).

2. Please report on any other significant developments in the legal and institutional framework within which human rights are promoted and protected that have taken place since the adoption of the previous concluding observations, and provide examples of cases in which the provisions of the Covenant have been referred to by national courts.

##### B. Specific information on the implementation of articles 1 to 27 of the Covenant, including with regard to the Committee's previous recommendations

###### Constitutional and legal framework within which the Covenant is implemented (art. 2)

3. With regard to the Committee's most recent concluding observations (para. 7), please indicate whether the State party has considered withdrawing, or intends in the near future to withdraw, its reservations to articles 10 (2) (a) and (3), 14 (1) in fine and (5), 19, 21, and 22 of the Covenant and its declarations concerning articles 20 and 23 (2) of the Covenant.

4. In the light of the Committee's most recent concluding observations (para. 8), please indicate whether the State party plans to establish in the near future an independent national human rights institution in accordance with the principles relating to the status of national

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\* Adopted by the Committee at its 117th session (20 June-15 July 2016).



institutions for the promotion and protection of human rights (Paris Principles). In particular, please report on the progress made in concluding a cooperation agreement to set up a national human rights institution in collaboration with the communities and regions, as called for in the governmental agreement of December 2011. Please specify how, in the meantime, the State party goes about coordinating the different mechanisms, policies and strategies that are in place at the federal, regional and community levels with a view to ensuring that they are effective and that all persons residing in its territory can avail themselves of the rights conferred by the Covenant on an equal footing.

**Counter-terrorism measures (arts. 2, 7, 9, 10, 14 and 17)**

5. Please provide updated information on the measures taken by the State party to respond to any threats of terrorism and indicate whether the measures have affected human rights safeguards in law and in practice and, if so, how. Please explain how the State party has ensured that the measures, particularly those related to loss of nationality or refugee status, searches, surveillance and interception, and to the use and storage of private communications and data, are consistent with all its obligations under the Covenant. Please report on the steps taken to give effect to the agreement with the International Committee of the Red Cross (ICRC) and thus to enable ICRC to evaluate the conditions of detention of persons deprived of their liberty in connection with the fight against terrorism.

**Non-discrimination and the rights of persons belonging to ethnic, religious, linguistic or sexual minorities (arts. 2, 20, 22 and 24-27)**

6. With reference to the Committee's previous concluding observations (para. 22), please describe the measures taken to combat racially or religiously motivated offences against members of the Jewish, Muslim and Roma communities, Travellers and persons of foreign origin. Please indicate whether the State party intends to adopt an inter-federal plan to combat racism, racial discrimination, xenophobia and intolerance. Please provide statistics on the magnitude of acts of racist violence and on racial discrimination and inequality.

7. Please describe the measures taken to combat incitement to hatred and racist propaganda, provide data for the reporting period on the inquiries conducted and proceedings brought in response to efforts to stir up nationalist, racial or religious hatred, and indicate the outcomes. Please indicate whether the State party plans to adopt a law banning organizations that incite hatred and spread racist propaganda.

8. Please explain how the ban on wearing headscarves in public and wearing religious symbols in many schools is compatible with the State party's obligations under articles 18 and 26. Please also describe the specific measures adopted to promote freedom of religion and respect for diversity in order to guarantee the rights established in the Covenant.

9. Please describe the steps taken to implement the Committee's previous recommendations (para. 10) with regard to the requirement to speak or learn Dutch in order to access certain community services. Please describe the measures taken to foster awareness and the exercise of the right of appeal and provide statistics on the number and outcome of complaints of discrimination on the basis of language. Please indicate whether there are plans to set up a body competent to deal with discrimination on the basis of language and to prohibit incitement to discrimination and discrimination in employment and in access to goods and services on grounds of language or religion.

10. Please describe the measures adopted to prevent and punish discrimination based on gender identity and sexual orientation, and the remedies available to victims of such discrimination. Please indicate whether the State party plans to include gender expression and gender identity as explicit grounds of discrimination in the various anti-discrimination

laws at the federal, regional and community levels. Please explain whether any steps have been taken to amend the Act of 10 May 2007 on transsexuality in order to abolish the requirement that transgender persons who wish to obtain legal recognition of their gender undergo a psychiatric assessment, sterilization and surgery.

**Non-discrimination and violence against women (arts. 2, 3, 7 and 26)**

11. In the light of the Committee's most recent concluding observations (para. 12), please supply information on the measures taken to combat discrimination against women, in particular by eliminating the gender wage gap, guaranteeing access to certain posts and ensuring that women are represented at decision-making levels in political and public life and in the private sector.

12. Please provide information on the measures taken to combat violence against women, including domestic violence, and to encourage reporting of such violence. Please indicate whether the State party has adopted comprehensive and specific legislation on domestic violence and provide information on the measures taken to ensure that there is a sufficient number of shelters for victims of violence and that the shelters are accessible irrespective of the victim's financial situation. Please also provide statistical data for the reporting period on the number of complaints of different types of violence against women, including domestic and sexual violence, and on the number of convictions, including the penalties imposed and the compensation awarded to the victims. Please provide information on measures taken to combat forced marriage, honour crimes and female genital mutilation. Please indicate whether there are plans to amend the Criminal Code with a view to qualifying sexual abuse as an "offence against the person" rather than as an "offence against public morality and family order".

**Prohibition of torture and of cruel, inhuman or degrading treatment or punishment, security of person and treatment of prisoners (arts. 3, 7, 9 and 10)**

13. Please indicate whether steps have been or are being taken to: (a) amend the definition of torture contained in article 417 bis of the Criminal Code with a view to ensuring that it covers acts of torture, including those committed by a third person at the instigation of or with the consent or acquiescence of a public official or acts of torture motivated by discrimination of any kind; (b) adopt legislative provisions on the inadmissibility of evidence obtained as a result of torture; (c) ensure that the State party's policy of "safe third countries" does not breach the principle of non-refoulement; and (d) review the policy of reliance on diplomatic assurances to justify the return of foreign nationals to countries where they may face a real risk of torture or other forms of ill-treatment.

14. Please indicate the number of complaints of torture and ill-treatment by law enforcement officials and prison staff received during the reporting period and provide information on the investigations and prosecutions carried out and on the convictions obtained, the penalties imposed and the compensation awarded. In the light of the Committee's most recent concluding observations (paras. 14 and 15) and the information provided by the State party on the follow-up to those observations, please describe the measures taken to ensure the prompt investigation of such acts and the prosecution of those responsible, and to ensure that the perpetrators are punished in a manner commensurate with the acts committed. Please also provide information on the outcome of the investigations conducted by the Standing Committee for Police Monitoring ("Committee P") in 30 police precincts and on the procedures established to ensure the transparency and autonomy of the system for dealing with complaints against members of the police force, in particular by guaranteeing that Committee P and its Investigation Service are composed of independent experts recruited from outside the police force.

**Security of person and treatment of prisoners (arts. 7, 9 and 10)**

15. With reference to the Committee's previous concluding observations (para. 19), please explain the measures taken to put an end to the practice of keeping persons with serious mental health problems in prisons and psychiatric wards, to increase the number of beds available in social protection institutions and to improve living conditions for patients. Please describe the measures taken to expand the mental health services available in prisons and to offer appropriate care and treatment to inmates with mental health problems. Please provide information on the implementation of the Act of 5 May 2014 on detention, which entered into force on 1 January 2016.

16. In the light of the Committee's previous concluding observations (para. 13), please provide information on the measures taken to relinquish the use of electro-muscular disruption devices. Please inform the Committee about the measures taken to ensure that such devices are used exclusively in extreme and limited situations, and to control and monitor their use.

17. Please supply updated information, with statistics disaggregated by sex, age group and ethnic origin or nationality, on the number of persons held in detention, including pretrial detention, and provide statistics on prison overcrowding. In the light of the Committee's previous concluding observations (para. 18), please describe the measures taken to improve prison conditions and, in particular, to reduce overcrowding, to improve hygiene, to separate prisoners serving under different prison regimes and minors and adults, to avert the risk of violence among prisoners, to facilitate access to health care and improve its quality and to ensure that more trained staff are present. Please describe the steps taken to ensure that pretrial detention is limited to exceptional cases and state whether progress has been made in using alternatives to detention, in particular electronic surveillance, and whether the granting of parole is encouraged. Please provide information on the measures taken to ensure that strikes by prison staff do not have a harmful impact on detention conditions. Please explain the measures taken to expedite the entry into force of the Organic Act of 12 January 2005 on the prison service and the legal status of prisoners (known as the "Dupont law"), in particular the provisions under which prisoners may lodge complaints, and provide detailed information on the current level of implementation of the Act.

**Prohibition of slavery and servitude (art. 8)**

18. Bearing in mind the Committee's previous concluding observations (para. 16), please provide information on the measures taken to combat trafficking in persons, particularly women and children, for the purposes of forced labour and sexual exploitation. Please provide data on: (a) the number of reported cases; (b) the investigations and prosecutions initiated and the convictions and sentences handed down; and (c) the availability of support services for victims of trafficking, including shelters, legal assistance and reintegration services. Please provide information on the steps taken to grant residence permits to victims of trafficking without making them conditional on cooperation with the judicial authorities. In addition, please provide information on the training provided to judges, prosecutors, police officers and other State agents in detecting, investigating and prosecuting cases of trafficking in persons.

**Protection against arbitrary arrest and security of person (arts. 2, 9 and 10)**

19. Please indicate whether all persons deprived of their liberty, whether placed under judicial or administrative arrest or taken into police custody, have the benefit, in practice and from the very outset of the deprivation of liberty, of all the fundamental legal safeguards, including the right to be informed in an appropriate language of the reasons for their detention, the right to have prompt access to an independent lawyer and to consult him or her immediately following their detention, the right to contact family members or other persons of their choice and the right to have a medical examination performed without delay. Please indicate whether full body searches are practised routinely where detainees have had contact with the outside world. In the light of the Committee's most recent concluding observations (para. 17) and the information provided by the State party on the follow-up to those observations, please provide information on the outcome of the ongoing objective assessment of the implementation of the Act of 13 August 2011 amending both the Code of Criminal Procedure and the Act of 20 July 1990 on pretrial detention, and describe the measures taken to ensure the implementation of the Act. Please supply information on the outcome of the review of the system of free legal assistance conducted by the State party.

**Refugees and asylum seekers (arts. 7, 9, 10, 12-14 and 24)**

20. Please describe the circumstances that warrant the detention of migrants and asylum seekers, and report on the conditions of such detention. Please indicate whether there are alternatives to detention for asylum seekers and, if so, explain under what circumstances they are used. Please report on the maximum duration of deprivation of liberty and on the measures adopted or planned to improve the system for the judicial review of the administrative detention of foreign nationals. Please describe the measures adopted or planned to take into account potential vulnerabilities in decisions to impose or extend detention. With regard to the Committee's previous recommendations (para. 20), please describe the measures taken to improve the complaints mechanism for cases of ill-treatment of persons detained under the legislation on foreigners and to ensure that complaints are handled effectively by the complaints commission.

21. In the light of the Committee's most recent concluding observations (paras. 20 and 21) and the information provided by the State party on the follow-up to those observations, please indicate whether the State party has recorded any complaints of excessive force against foreign nationals who are subject to a deportation order and, if so, specify what proceedings have been instituted and what convictions and penalties have been handed down. Please indicate what measures have been taken by the State party to reinforce the monitoring of deportation operations, such as the use of video recordings and monitoring by independent bodies. Please describe the measures taken to restrict the use of means of restraint during expulsion operations. Please provide information on the measures taken to strengthen the independence, impartiality and efficiency of the Inspectorate-General of the Federal and Local Police. Specifically, please provide information regarding resource allocation and the Inspectorate-General's capacity to monitor expulsions and to receive and consider complaints.

**Right to a fair trial (arts. 2, 14 and 26)**

22. Please describe the legislative measures taken or envisaged to implement the Committee's previous recommendations (para. 23) concerning the use of referral orders whereby minors between the ages of 16 and 18 may be tried as adults.

**Rights of the child (arts. 7 and 24)**

23. Please explain whether the State party intends to expressly prohibit corporal punishment of children in all settings and, as a matter of priority, in the family and in non-institutional childcare settings. Please also indicate whether the State party has conducted awareness-raising campaigns on the negative effects of violence against children, especially corporal punishment.

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