



International Covenant on Civil and Political Rights

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Human Rights Committee

Concluding observations on the sixth periodic report of Belgium*

1. The Human Rights Committee considered the sixth periodic report of Belgium (CCPR/C/BEL/6) at its 3651st and 3652nd meetings (see CCPR/C/SR.3651 and 3652), held on 15 and 16 October 2019. At its 3676th and 3677th meetings, held on 1 November 2019, it adopted the present concluding observations.

A. Introduction

2. The Committee welcomes the submission of the sixth periodic report of Belgium through the simplified reporting procedure in response to the list of issues prior to reporting prepared under that procedure (CCPR/C/BEL/QPR/6). It expresses appreciation for the opportunity to have a constructive dialogue with the State party's delegation on the measures taken to implement the provisions of the Covenant. The Committee is also grateful to the State party for the replies presented orally by the delegation and for the supplementary information provided to it in writing after the dialogue.

B. Positive aspects

3. The Committee welcomes the State party's adoption of the following legislative and policy measures:

(a) Act No. 2011003317 of 28 July 2011, amending the Act of 21 March 1991 reforming certain public enterprises, the Companies Code and the Act of 19 April 2002 streamlining the operation and management of the National Lottery so as to ensure the presence of women on the boards of directors of autonomous public enterprises, listed companies and the National Lottery;

(b) Act No. 2012204357 of 22 April 2012, aimed at reducing the wage gap between men and women;

(c) Act No. 2013009352 of 29 April 2013, aimed at amending article 433 quinquies of the Criminal Code, with a view to clarifying and expanding the definition of human trafficking;

(d) Act No. 2013009351 of 24 June 2013, on suppression of exploitation of begging and prostitution, human trafficking and smuggling of human beings, taking into account the number of victims;

* Adopted by the Committee at its 127th session (14 October–8 November 2019).



(e) Act No. 2014000586 of 22 May 2014, on combating sexism in the public domain, which amended the Act of 10 May 2007 on combating discrimination between women and men, so as to criminalize acts of discrimination;

(f) Act No. 2014009398 of 12 May 2014, amending Title XIII, Chapter VI of Programme Law (I) of 24 December 2002, in respect of the guardianship of foreign unaccompanied minors;

(g) Act No. 2016009219 of 31 May 2016, supplementing the implementation of European obligations in respect of the sexual exploitation of children, child pornography, human trafficking and support provided in the event of unauthorized entry, transit and residence;

(h) Act No. 2016009356 of 6 July 2016, amending the Judicial Code in respect of legal aid;

(i) Act No. 2017012964 of 25 June 2017, reforming the way in which transgender persons are treated in respect of the notation, in the documentation of the civil registry, that their gender assignment has changed, and the effects thereof, while taking note of Constitutional Court ruling No. 99/2019 of 19 June 2019, which found Act No. 2017012964 of 25 June 2017 partially unconstitutional;

(j) The adoption, on 10 June 2013, of the Interfederal Action Plan to Combat Homophobic and Transphobic Violence 2013–2014;

(k) The adoption, in December 2015, of the national action plan to combating all forms of gender-based violence 2015–2019;

(l) The adoption, on 15 July 2015, of the third national action plan to combat human trafficking 2015–2019;

(m) The adoption, in May 2018, of the interfederal action plan to combat discrimination and violence against lesbian, gay, bisexual, transgender and intersex persons 2018–2019.

4. The Committee welcomes the ratification by the State party on 20 May 2014 of the Optional Protocol to the International Covenant on Economic, Social and Cultural Rights.

C. Principal subjects of concern and recommendations

Applicability of the Covenant in the domestic legal system and follow-up to the Committee's Views

5. The Committee notes the absence of a provision in domestic law enshrining the principle of the applicability of international treaties in domestic law. It also notes cases in which the provisions of the Covenant were invoked before the courts and tribunals of the State party and in which its direct applicability was confirmed by the Court of Cassation, in 1971 and 1984. It regrets the absence of a specific mechanism allowing the State party to follow up on the Committee's Views (art. 2).

6. **The State party should establish, in its legislation and its practice, sufficient legal guarantees to ensure in its domestic legal system the full protection of the rights enshrined in the Covenant. It should also establish a specific mechanism to give effect to the Committee's Views.**

Reservations

7. The Committee remains concerned about the fact that the State party is maintaining its reservations to article 10 (2) (a) and 10 (3), article 14 (1) and (5) and articles 19, 21 and 22 of the Covenant, as well as its interpretative declarations of article 20 (1) and article 23 (2) of the Covenant (art. 2).

8. **The State party should consider withdrawing its reservations and interpretative declarations regarding the provisions of the Covenant.**

National human rights institution

9. The Committee welcomes the adoption of Act No. 2019012931 of 12 May 2019, establishing the Federal Institute for the Protection and Promotion of Human Rights; however, it notes that the Institute is not yet operational. It also notes that there are several sectoral institutions for human rights in the State party, with various mandates, including the Interfederal Centre for Equal Opportunities (Unia), which has been given B status by the Accreditation Subcommittee of the Global Alliance of National Human Rights Institutions. However, the Committee is unclear as to how such institutions will ensure coordination with the new federal institute, which is essential for the effective implementation of its mandate in all areas of human rights in the State party, including its ability to receive complaints (art. 2).

10. **The State party should speed up the establishment of the Federal Institute for the Protection and Promotion of Human Rights, in accordance with the principles relating to the status of national institutions for the promotion and protection of human rights (the Paris Principles), providing it with a comprehensive mandate and with all the necessary resources to carry it out in full, including the possibility to receive complaints. The State party should furthermore encourage the federal authorities and the federated entities to negotiate cooperation agreements so as to increase collaboration between the Federal Institute and sectoral institutions in order to ensure effective protection, in accordance with the State party's obligations under the Covenant.**

Antiterrorism measures

11. The Committee notes the measures taken by the State party to prevent and combat terrorism and violent extremism, in accordance with its obligations under the Covenant. However, it notes with concern the absence of a clear legal framework, in keeping with human rights, for example for professional secrecy and other obligations of confidentiality, as well as the ambiguous definition of offences related to terrorism, national security and public order. It also remains concerned about the absence of legal guarantees relating to the collection and processing of data on persons in various databases related to efforts to prevent and combat terrorism and violent extremism, as well as the provisions of the Belgian Nationality Code and the Consular Code that allow, on the one hand, for persons who apparently pose a serious danger to public order or security to be stripped of their Belgian nationality, and on the other hand, to have the passports or travel documents of such persons revoked. Furthermore, the Committee regrets that the victims of the terrorist acts of 2014 and 2016 in the State party face obstacles in obtaining compensation (arts. 2, 7, 9, 10, 12, 14 and 17).

12. **The State party should:**

(a) **Carry out an assessment of its legislation and practices for preventing and combating terrorism in respect of their compatibility with its obligations under the Covenant;**

(b) **Provide legal guarantees for individuals whose nationalities, residence permits or passports have been revoked and/or who are included in the various databases related to efforts to prevent and combat terrorism and violent extremism, including effective remedies;**

(c) **Ensure that the victims of the terrorist acts of 2014 and 2016 receive compensation.**

13. The Committee is concerned about the number of children born to Belgian nationals who are still in conflict zones and about their conditions there, in the absence of a clear and fair established procedure for the repatriation of all such children, with respect for the principle of the best interests of the child. Furthermore, it is concerned about the fact that Belgian nationals suspected of terrorism or war crimes may be tried in third countries, without respect for the legal guarantees of the right to a fair trial and of the other rights contained in the Covenant (arts. 6, 7, 9, 12 and 24).

14. **The State party should:**

(a) **Facilitate the repatriation of all children born to Belgian nationals who are in conflict zones, respecting the principle of the best interests of the child, and ensure their access to rehabilitation services and care upon repatriation;**

(b) **Make the necessary efforts to ensure that Belgian nationals suspected of acts of terrorism or war crimes are brought to justice in accordance with the rights contained in the Covenant.**

Non-discrimination and the rights of persons belonging to ethnic, religious, linguistic or sexual minorities

15. While welcoming the measures taken by the State party to combat all forms of discrimination, the Committee expresses its concern about the persistence of discriminatory acts against persons belonging to ethnic, religious, linguistic or sexual minorities. It notes with concern the persistence of discriminatory acts such as ethnic profiling for identity checks by the police and obstacles to access to housing or the enjoyment of social benefits, owing to discrimination based on language, without the provision of effective remedies. It also notes that data disaggregated by ethnicity, sex and age are missing at various levels and that no national action plan against racism has yet been adopted (arts. 2, 18, 20 and 24–27).

16. **The State party should:**

(a) **Amend its legislation by expressly prohibiting ethnic profiling and ensure the effective implementation and monitoring of the prohibition;**

(b) **Provide an effective remedy for complaints of discrimination based on language;**

(c) **Ensure that data disaggregated by ethnicity, sex and age are collected at different levels and in different sectors, in accordance with the guidance for human rights indicators issued by the Office of the United Nations High Commissioner for Human Rights;**

(d) **Expedite the adoption of a national action plan against racism and ensure its implementation and monitoring.**

Freedom of conscience and religion

17. Noting the low number of women wearing burkas or niqabs in the State party, the Committee is concerned about the law governing the wearing of full veils in public, which calls for fines or prison sentences and could be a disproportionate infringement on the freedom to manifest one's religion or belief. In addition, the Committee is concerned about the prohibition against the wearing of religious symbols at work, in certain public bodies and by teachers and students at public schools, which could result in discrimination and the marginalization of certain persons belonging to religious minorities (arts. 2, 3, 18 and 26)

18. **The State party should reconsider its legislation on the wearing of religious symbols and clothing in public, at work and in schools, in accordance with its obligations under the Covenant, in particular in respect of the right to freedom of thought, conscience and religion and the right to equality before the law.**

Hate speech

19. While taking note of the measures adopted by the State party to combat hate speech, the Committee notes that a legislative and procedural distinction is made between the treatment of racist and xenophobic hate speech and hate speech of other types, for example homophobic or Islamophobic hate speech (arts. 2, 19, 20 and 26).

20. **The State party should reconsider its legislation relating to hate speech in order to harmonize the procedures for dealing with the various types of hate speech.**

Sexual orientation, gender identity and intersexuality

21. The Committee notes with concern that children born with intersex traits are sometimes subjected to invasive and irreversible medical procedures aimed at assigning them

with a sex, that such actions are often based on a stereotyped vision of gender roles and that they are carried out before the persons in question are of an age to give their free and informed consent (arts. 3, 7, 9, 17, 24 and 26).

22. The State party should take the necessary measures to end the performance of irreversible medical acts, especially surgical operations, on intersex children who are not yet capable of giving their free and informed consent, except in cases where such interventions are absolutely necessary for medical reasons.

Non-discrimination and violence against women

23. The Committee notes the legislative measures taken by the State party and the support and awareness initiatives taken by the communities to combat violence against women and harmful practices, including forced marriage, honour killings and female genital mutilation. However, it notes the lack of disaggregated data on the various forms of violence against women, listing the number of complaints filed, of cases prosecuted and convictions handed down, and it further notes with concern the low level of reporting by victims of violence (arts. 7 and 23).

24. The State party should:

(a) **Continue its efforts to raise awareness among the public, the police, the judicial authorities and social workers at support centres on all forms of violence against women and on the mechanisms available for victims in the event of violations;**

(b) **Improve the system for collection of disaggregated data on reports of and convictions for all forms of harmful practices and violence against women;**

(c) **Continue its efforts to facilitate the filing of complaints by victims of violence.**

Prohibition of torture and cruel, inhuman or degrading treatment or punishment

25. While taking note of the discussions currently under way to amend the Criminal Code and the Code of Criminal Procedure, the Committee notes that article 417 bis of the Criminal Code has not been amended to include acts of torture committed by third parties at the instigation or with the consent or acquiescence of public officials, or acts of torture motivated by discrimination of any kind. It is also concerned about the absence of a provision explicitly stating that evidence obtained by torture is inadmissible (art. 7).

26. The State party should amend the Criminal Code and the Code of Criminal Procedure in line with the provisions of the Covenant with regard to the definition of torture and confessions obtained through torture.

27. The Committee notes the disparity between, on the one hand, the number of complaints alleging ill-treatment by police officers filed with the Standing Committee for Police Monitoring and, on the other hand, the number of judicial inquiries conducted by the Police Investigation Service for such acts and of convictions and disciplinary penalties handed down. The Committee is also concerned about persistent misgivings regarding the independence of the Standing Committee (art. 7).

28. The State party should ensure thorough and impartial investigations into all allegations of ill-treatment filed with the Standing Committee for Police Monitoring and take additional steps to guarantee the Committee's independence.

Refugees, asylum seekers and non-refoulement

29. The Committee notes with concern that detention is still practised in the State party for reasons related to immigration, and especially that there has been a return to the practice of deprivation of liberty of families, pregnant women and migrant children. It regrets the construction of closed facilities for detention for reasons related to immigration and restrictions on the freedom of movement and travel of migrants held in "return houses" (*maisons de retour*). The Committee also notes the absence of legislation providing for a procedure for the recognition of statelessness and including the possibility of granting residency to persons recognized as stateless (arts. 7, 9, 10, 12, 13 and 24).

30. **The State party should:**

(a) **Prohibit the detention of migrants, especially families, pregnant women and children, and develop alternatives to detention, in conformity with its obligations under the Covenant and the principles of the best interests of the child and family unity;**

(b) **Adopt legislation on statelessness for the granting of citizenship or residence permits to persons recognized as stateless in the State party.**

31. The Committee is concerned about the absence of an effective procedure for the individual assessment of asylum seekers on the one hand and of persons who are subjected to deportation or expulsion on the other, in accordance with the principles of non-refoulement and safe third countries. It is also concerned about reports that Sudanese migrants were deported in 2017 with the cooperation of the Sudanese authorities, without benefiting from individualized assessments of their situation by the State party (arts. 7, 9, 10, 12, 13 and 24).

32. **The State party should take all necessary measures to ensure that an individual assessment is carried out for each case of asylum, deportation or expulsion, with full respect for the principles of non-refoulement and safe third countries, in accordance with its obligations under the Covenant. The State party should also ensure the effective and independent monitoring of deportation operations.**

Security of person and conditions of detention

33. The Committee notes the measures taken by the State party to improve conditions of detention. However, it remains concerned about (a) the high rate of overcrowding; (b) the sparse use of alternatives to deprivation of liberty; (c) the lack of access to health care and services; (d) the use of overmedication; (e) the rate of suicide in detention; and (f) the detention of persons with mental disorders in psychiatric wards of prisons, where the care is insufficient and appropriate treatment is lacking. It notes with concern the repercussions of strikes by prison staff on inmates in recent years. However, it also notes the State party's adoption of Act No. 2019011569 of 23 March 2019 on the organization of the prison service and the status of prison staff so as to ensure minimum staffing levels at prisons (arts. 7, 9 and 10).

34. **The State party should:**

(a) **Continue its efforts to reduce overcrowding in prisons, including through the use of alternatives to detention, and improve living conditions at detention facilities, pursuant to the United Nations Standard Minimum Rules for the Treatment of Prisoners (the Nelson Mandela Rules);**

(b) **Provide for alternatives to the deprivation of liberty of persons with mental disorders at prisons;**

(c) **Ensure implementation of Act No. 2019011569 of 23 March 2019 on the organization of the prison service and the status of prison staff, so as to ensure the minimum staffing levels at prisons, including during strikes.**

D. Dissemination and follow-up

35. **The State party should widely disseminate the Covenant, its sixth periodic report and the present concluding observations among the judicial, legislative and administrative authorities, civil society and non-governmental organizations operating in the country and with the general public, with a view to raising their awareness of the rights enshrined in the Covenant. The State party should ensure that the report and the present concluding observations are translated into its official languages.**

36. **In accordance with rule 75 (1) of the Committee's rules of procedure, the State party is invited to provide, by 8 November 2021, information on the implementation of the recommendations made by the Committee in paragraphs 10 (Federal Institute for the Protection and Promotion of Human Rights), 14 (repatriation of all children of Belgian nationals in conflict zones) and 30 (detention for reasons related to immigration), above.**

37. In accordance with the Committee's planned review cycle, the State party will in 2025 receive from the Committee the list of issues prior to submission of the report and will have one year to submit its replies to the list of issues, which will constitute its seventh periodic report. The Committee also requests the State party, in preparing its report, to broadly consult civil society and non-governmental organizations operating in the country. In accordance with General Assembly resolution 68/268, the word limit for the report is 21,200 words. The next constructive dialogue with the State party will take place in Geneva in 2027.
