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**Summary prepared by the Office of the High Commissioner  
for Human Rights in accordance with paragraph 15 (c) of the  
annex to Human Rights Council resolution 5/1**

**Belgium\***

The present report is a summary of eight stakeholders' submissions<sup>1</sup> to the universal periodic review. It follows the structure of the general guidelines adopted by the Human Rights Council. It does not contain any opinions, views or suggestions on the part of the Office of the United Nations High Commissioner for Human Rights (OHCHR), nor any judgement or determination in relation to specific claims. The information included herein has been systematically referenced in endnotes and, to the extent possible, the original texts have not been altered. Lack of information or focus on specific issues may be due to the absence of submissions by stakeholders regarding these particular issues. The full texts of all submissions received are available on the OHCHR website. The report has been prepared taking into consideration the four-year periodicity of the first cycle of the review.

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\* The present document was not edited before being sent to United Nations translation services.

## **I. Background and framework**

### **A. Scope of international obligations**

1. Amnesty International (AI) called on Belgium to ratify the Optional Protocols to the International Covenant on Economic, Social and Cultural Rights and to the Convention against Torture.<sup>2</sup>
2. ECPAT International (ECPAT) recommended Belgium to ratify the Council of Europe Convention on the Protection of Children against Sexual Exploitation and Sexual Abuse.<sup>3</sup>
3. The Council of Europe Commissioner for Human Rights (CoE Commissioner) recommended Belgium to ratify Protocol 12 on the general prohibition of discrimination to the European Convention on Human Rights as well as the Framework Convention for the Protection of National Minorities.<sup>4</sup> The European Commission against Racism and Intolerance (CoE-ECRI) further recommended Belgium to ratify the European Charter for Regional or Minority Languages, the Convention on the Participation of Foreigners in Public Life at Local Level, the UNESCO Convention against Discrimination in Education and the International Convention on the Protection of All Migrant Workers and Members of their Families.<sup>5</sup>

### **B. Institutional and human rights infrastructure**

4. CoE Commissioner recommended that Belgium pursue and step up their efforts to consolidate the Centre for Equal Opportunities and Opposition to Racism Centre (CEOOR) and finalize the cooperation agreement between federal entity and federated entities to turn the Centre into an inter-federal entity.<sup>6</sup>
5. AI called on Belgium to establish a National Human Rights Institution, fully compliant with the Paris Principles.<sup>7</sup>
6. CoE-ECRI noted that the only ground for discrimination that had not yet been assigned to a specialized body was language. Under the 2007 Act, the King was to designate the body which will be competent to deal with discrimination based on language.<sup>8</sup> CoE Commissioner indicated that the Permanent Commission for Language Supervision (PCLS) had been set up to receive individual complaints against alleged violations of language legislation. However, the PCLS had not been mandated to act under the 2007 non-discrimination legislation on the ground of language.<sup>9</sup> CoE Commissioner urged Belgium to set up an effective and impartial mechanism to deal with complaints regarding discrimination based on language under the current non-discrimination legislation.<sup>10</sup> CoE-ECRI made a similar recommendation.<sup>11</sup>
7. ECPAT reported that, despite the establishment, in 2007, of the Belgian National Commission on the Rights of the Child in charge of coordinating and monitoring the policy framework related to children's rights, the effective implementation of the policies addressing child sexual exploitation related issues appeared to be hampered by a lack of specific institution in charge of the implementation of these policies at federal level. ECPAT called on Belgium to establish a specific mechanism in charge of coordinating, monitoring and evaluating the implementation of policies and programmes aiming at protecting children from sexual exploitation.<sup>12</sup>

8. ECPAT indicated that there was no ombudsperson for children in the German region of Belgium.<sup>13</sup>

### **C. Policy measures**

9. CoE Commissioner noted that Belgium did not have either a national human rights action plan or machinery for overall coordination of the various agencies in this area and recommended that Belgium draw up an action plan for the protection and promotion of human rights.<sup>14</sup>

10. Joint Submission 1 (JS1) indicated that Belgium needed to collect accurate data by taking into account all children, to allocate substantial resources and give special attention to children of the most vulnerable groups.<sup>15</sup>

11. ECPAT reported that the National Plan of Action against the Commercial Sexual Exploitation of Children, established in 2001, had not been renewed.<sup>16</sup>

12. JS1 reported that the National Plan of Action for Children did not mention coordination, budget allocation and criteria for evaluation.<sup>17</sup>

13. JS1 recommended that Belgium provide more resources towards initiatives that help in creating a true culture of child participation; guarantee the participation of children in vulnerable situations; and invest in the promotion and distribution of suitable information on children's rights in a way that was accessible and understandable for children.<sup>18</sup>

## **II. Promotion and protection of human rights on the ground**

### **Implementation of international human rights obligations**

#### **1. Equality and non-discrimination**

14. CoE Commissioner indicated that the Belgian legislation against discrimination and racism adopted in May 2007 went beyond the requirements of EU equality directives and also took the relevant jurisprudence of the Belgian Constitutional Court into account, especially as regards the grounds of discrimination.<sup>19</sup>

15. CoE-ECRI recommended that in order to have a coherent and comprehensive body of anti-discrimination laws, care should be taken to bring the provisions adopted by the various federated entities into line with the federal legislation.<sup>20</sup> CoE-ECRI recommended that Belgium continue its efforts to inform the public about the existing provisions prohibiting racial discrimination and about any provisions that might be adopted in the future.<sup>21</sup>

16. CoE-ECRI reported that both non-citizens and persons of immigrant background were the main targets of racism and racial discrimination in Belgium.<sup>22</sup> CoE-ECRI also reported that Muslims were subject to a variety of forms of racism and intolerance.<sup>23</sup> It further noted the persistence of intolerant acts and expressions directed against persons belonging to the Jewish community.<sup>24</sup>

17. CoE-ECRI noted with interest that significant progress had been made as regards the introduction and use of tools for combating racist discourse in politics. Nevertheless, CoE-ECRI described incidents of racism in political discourse in the media, on the Internet and in sport<sup>25</sup> and expressed concerns at the existence of Neo-Nazi and extreme right-wing groupings active in Belgium.<sup>26</sup> CoE-ECRI notably recommended that Belgium strengthen the mechanism to monitor extreme right-wing organizations.<sup>27</sup> CoE-ECRI expressed

concerns at reported cases of racial discrimination on the part of police officers.<sup>28</sup> In particular, CoE-ECRI urged Belgium to take steps to prevent and prohibit racial profiling by the police.<sup>29</sup>

18. CoE-ECRI indicated that observers noticed a sharp increase in racist web pages and discussion forums that can be accessed from Belgian sites and strongly recommended that Belgium pursue and step up their efforts to combat the presence of racist expressions on the Internet.<sup>30</sup>

19. CoE-ECRI was pleased to note that a number of measures had been taken to improve the implementation of the criminal law provisions to combat racism.<sup>31</sup> CoE-ECRI recommended that Belgium assess the implementation of these provisions. It further recommended that Belgium improve and supplement the existing arrangements for collecting data on racist incidents and the follow-up given to them by the criminal justice system.<sup>32</sup>

20. CoE Commissioner mentioned various issues relating to discrimination based on language, such as the non-appointment by the Flemish authorities of three mayors from municipalities with facilities in Flanders because voting letters were sent in French in contravention of the general language legislation on this matter; allegations of discrimination on the ground of language in the access to housing and public services, the purchase of municipal land, hiring of municipal halls, enjoyment of certain social security benefits and access of children to municipal playing grounds.<sup>33</sup> CoE-ECRI indicated that the Flemish Housing Code was amended in 2006 and now required applicants for social housing in Flanders to show a willingness to learn Dutch.<sup>34</sup> CoE-ECRI also stated that recent years had seen the introduction in a number of municipalities in Flanders of a requirement to demonstrate a certain proficiency in Dutch or at least a willingness to learn Dutch as a condition for entitlement to various public services.<sup>35</sup>

21. CoE-ECRI drew attention to a number of schemes which seek to promote diversity in employment. It however recommended that Belgium pay particular attention to any discrimination in access to employment that might arise from unjustified requirements concerning knowledge of languages.<sup>36</sup>

22. JSI reported that the media predominantly presented a negative image of young people and recommended that Belgium ensure an accurate and correct representation of children and youngsters in the media as well as attach special attention to negative and stereotypical images in this regard.<sup>37</sup>

## **2. Right to life, liberty and security of the person**

23. AI reported that the use of conducted energy devices by police was not limited to being an alternative to lethal force. AI recommended that conducted energy devices be used only when strictly necessary and proportionate, and only in situations where the only lawful alternative would be use of lethal force, through transparent and strictly regulated procedures with the establishment of effective control mechanisms.<sup>38</sup> The European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CoE-CPT) gave examples of conducted energy devices being used, and made similar recommendations.<sup>39</sup>

24. CoE-CPT described several cases of ill-treatment by police in the Forest and Lantin prisons during the strikes by prison staff in 2009; they were the subject of investigations.<sup>40</sup>

25. CoE Commissioner recommended that Belgium make the system for monitoring police activities more independent and transparent, and more effective at the investigation stage.<sup>41</sup>

26. CoE-CPT referred to several allegations of ill-treatment of detainees by prison staff.<sup>42</sup> It recommended that Belgium draw up a strategy to control violence between detainees.<sup>43</sup> Detainees should undergo a systematic medical examination after any violent incident in prison.<sup>44</sup>

27. CoE-CPT welcomed the adoption in 2007 of minimum standards for conditions of detention in police facilities, and recommended that similar legal standards be drafted for conditions of detention in facilities within the judicial system.<sup>45</sup>

28. AI expressed concerns at prisons' overcrowding with its consequences on the rights to health and privacy, its impact on standards of hygiene, food quality and safety, the restriction of exercise time, and the number and length of visits.<sup>46</sup> The Observatoire international des prisons (OIP) and CoE Commissioner made specific reference to the lack of adequate health care.<sup>47</sup> OIP pointed out that average prison populations were 25 per cent over official capacity.<sup>48</sup> CoE Commissioner was struck by the number of prisoners per cell and wished to emphasize the need to separate untried and sentenced prisoners.<sup>49</sup> CoE Commissioner also underlined the dilapidated state of some prisons<sup>50</sup> and indicated that the number of suicides in prisons was on the rise.<sup>51</sup>

29. AI also reported that about 500 persons were being detained in a prison in a neighbouring country.<sup>52</sup> OIP reported that the number could be as high as 681, that transfers to the prison were not made on a voluntary basis,<sup>53</sup> and that, in addition to its geographical distance from the country, the prison did not have any Belgian reintegration mechanism.<sup>54</sup> AI called on Belgium to ensure that sufficient and adequate resources are allocated to prisons and to promptly and effectively address the issue of prison overcrowding.<sup>55</sup>

30. OIP reported that the Masterplan 2008–2013 drawn up by successive Ministers of Justice considered the problem of prison overcrowding only from the perspective of increasing capacity.<sup>56</sup> CoE Commissioner expressed similar views and stated that this must go hand in hand with a comprehensive criminal justice policy aimed at curbing the structural process of prison population inflation.<sup>57</sup> OIP expressed a similar view.<sup>58</sup> CoE Commissioner recommended that Belgium promote non-custodial sentences.<sup>59</sup>

31. JS1 provided information on the placement of children in psychiatric services. It expressed concerns at the fact that too many children were sent to psychiatric wards without knowing for how long. JS1 was also concerned that the use of measures limiting the freedom of children (including isolation) as punishment and of drug treatment were not measures of last resort. Life in a K ward was completely cut off from the outside world and children were often required to stay over the weekend at the hospital only for financial reasons. JS1 recommended that the placement or deprivation of liberty of children in psychiatry should be a measure of last resort and that contact with the outside world had to remain possible.<sup>60</sup>

32. CoE-CPT referred to cases of sexual assault between minors resident in two special education centres and the related judicial and administrative inquiries.<sup>61</sup> It made recommendations for preventing such assaults.<sup>62</sup>

33. ECPAT recommended that Belgium amend its Penal Code to include a definition of child pornography which covers all kind of representations of children engaged in sexual and to incorporate specific provisions addressing the solicitation of children, including online solicitation.<sup>63</sup>

34. ECPAT indicated that there was a lack of police units equipped and trained to identify and to provide adequate support to children victims of sexual exploitation or at risk of being sexually exploited.<sup>64</sup> ECPAT also reported that it appeared that the enforcement of specific laws prohibiting the various forms of sexual exploitation of children by courts was not effectively implemented.<sup>65</sup>

35. ECPAT reported that Belgium established a missing children telephone hotline in April 2009.<sup>66</sup>

36. ECPAT was concerned that, under the Guardianship Act, unaccompanied children from European Union countries could not benefit from the assistance of a legal guardian. Furthermore it was extremely difficult for unaccompanied foreign child victims to obtain a “status of victim of human trafficking”. If they planned to apply for a residence permit, they would be compelled to cooperate with Belgian law enforcement authorities who were prosecuting their cases.<sup>67</sup> ECPAT recommended that a guardian be appointed without delay to every unaccompanied child; the procedure to obtain the status of victim of human trafficking should be reviewed to ensure that children victims of trafficking obtain it systematically; and that the residence permit for children victims of trafficking should not be conditioned to their cooperation with law enforcement authorities.<sup>68</sup>

37. ECPAT reported about a lack of residential structures to provide specialized assistance to child trafficking victims.<sup>69</sup> ECPAT recommended that children victims of sexual exploitation have access to adequate services which provide them with the necessary economic and psychosocial support for their recovery and social reintegration.<sup>70</sup>

38. CoE-CPT reported that adults held in psychiatric hospitals could not give consent for medical treatment, and made relevant recommendations.<sup>71</sup> It also made recommendations on the use of methods of restraint and isolations in such facilities.<sup>72</sup>

39. OIP noted the increase in number of mentally ill offenders held in detention. It took three to four years for an inmate held in the psychiatric wing of a prison to be transferred to a social protection institution.<sup>73</sup>

40. While noting the adoption of the new action plan against violence in the family (2008–2009), CoE Commissioner encouraged Belgium to step up its efforts to stem violence against women and to extend the new action plan in this field to cover all forms of violence against women.<sup>74</sup>

41. The Global Initiative to End All Corporal Punishment of Children (GIEACPC) indicated that corporal punishment of children was lawful in the home while it was prohibited in schools and in the penal system. Regarding alternative care settings, there were decrees in some Communities which prohibited corporal punishment in institutions for children and foster-care. In spite of numerous recommendations by United Nations treaty bodies and the European Committee of Social Rights, Belgium did not amend its legislation. GIEACPC urged Belgium to enact legislation to prohibiting all corporal punishment of children in all settings.<sup>75</sup> JS1 considered that the position of the Government regarding corporal punishment was ambiguous and recommended the introduction of a new legal provision specifically prohibiting humiliating treatment or any form of physical or mental violence against children.<sup>76</sup>

42. JS1 recommended that Belgium set up a coordinated national action plan, including realistic goals, unambiguous deadlines and systemic evaluation, to stop all violence against children.<sup>77</sup>

43. While AI welcomed the detailed provisions regarding prisoners’ rights spelled out in the 2005 Dupont Act, it regretted that many of them had not yet entered into force, including the establishment of the independent complaints mechanism envisaged in the Act.<sup>78</sup> OIP described the malfunctions within the Central Prison Supervisory Council and the supervisory commissions, and the lack of such commissions in some prisons.<sup>79</sup> CoE Commissioner made similar comments and recommended Belgium to introduce an effective individual complaints system for prisoners by setting up an independent body.<sup>80</sup> CoE-CPT recommended that more attention be paid to the motives for disciplinary measures.<sup>81</sup>

44. OIP mentioned the large number of strikes by prison staff and their effects on detainees.<sup>82</sup> The basic reasons behind the strikes were prison overcrowding and staff shortages.<sup>83</sup> Those situations needed to be resolved urgently.<sup>84</sup> AI called on Belgium to put in place measures to guarantee the rights of prisoners at all time, including during strikes by prison staff.<sup>85</sup> CoE-CPT called on Belgium to introduce a “guarantee service” in the prison sector without delay.<sup>86</sup>

### 3. Administration of justice and the rule of law

45. CoE Commissioner reported that, notwithstanding the significant sums spent on the justice system, the latter was still relatively slow. Between 2004 and 2008, the European Court handed down nearly 70 decisions regarding Belgium for proceedings of excessive length, ranging from 6 to more than 20 years.<sup>87</sup> CoE Commissioner indicated that the causes of this situation were, inter alia, the under-resourcing of the justice system in terms of both the number of judges and operational resources, the complex nature of Belgium’s legal proceedings and legislation, and the organization of its judicial system. However, CoE Commissioner underlined efforts made by Belgium to tackle this issue such as the 2007 Act amending the Judicial Code.<sup>88</sup>

46. CoE Commissioner was disappointed that the “Grand Franchimont” proposal to reform criminal procedure was never implemented and recommended that Belgian law normally guarantee access to a lawyer from the commencement of deprivation of liberty by the police, and that a person deprived of his or her freedom be allowed to inform a relative or a third party of his or her situation.<sup>89</sup> CoE-CPT made similar recommendations and called on Belgium to establish a body of fundamental guarantees for individuals deprived of their liberty by the police for judicial purposes.<sup>90</sup>

47. JS1 indicated that juvenile justice was extensively reformed in 2006. The new legislation mixed protective measures, sanctions and restorative justice. The criminal approach was increasingly applied to minors.<sup>91</sup>

48. JS1 indicated that it remained possible to try a minor over 16 years as an adult, although the case would be dealt with by a separate chamber composed of judges with experience in juvenile law.<sup>92</sup> JS1 recommended that Belgium repeal the law on the referral of juvenile offenders to adult court by guaranteeing the right of children to undergo a treatment that promotes their sense of dignity.<sup>93</sup> CoE Commissioner added that such juveniles will be held in the same prisons than adults and recommended that Belgium put a stop to the detention of minors in adult prisons.<sup>94</sup>

49. JS1 welcomed the introduction in legislation of the right of the child to be heard within the justice system; however, clear criteria concerning age limits were lacking and only youth judges were required to call and hear children.<sup>95</sup> JS1 also stated that children did not have the right to a lawyer in procedures that involved them, while noting an initiative to this end by the Flemish bar.<sup>96</sup> JS1 indicated that the right of minors to initiate a legal procedure had not yet been recognized.<sup>97</sup> JS1 recommended that plans to establish a family court include measures such as the hearing of minors and legal aid. Children should also have access to the judge in any case that directly or indirectly involved them.<sup>98</sup>

50. JS1 reported that detention was the most common response to the deviant behaviour of a minor, including confinement in prison or in specialized institutions. The number of closed centres for juvenile offenders increased.<sup>99</sup> JS1 recommended that Belgium assess the use of confinement as practiced today, freeze the creation of any new places in closed institutions and engage in significant cultural, continuing education and youth policies; which play a role in preventing crime.<sup>100</sup> CoE Commissioner made similar recommendations.<sup>101</sup>

#### **4. Right to family life**

51. JS1 indicated that it was estimated that 7 to 11 per cent of children below 7 years were placed in care institutions, with separation from the parents, on the sole ground of precariousness.<sup>102</sup> JS1 recommended that Belgium take appropriate measures to keep children in the care of their family of origin in the best possible conditions, by allocating resources to support parenting, in consultation with the persons concerned.<sup>103</sup>

52. JS1 reported about a lack of childcare services, particularly affecting the poorest families, despite the genuine efforts made in the French Community.<sup>104</sup>

#### **5. Freedom of religion or belief and expression**

53. The Islamic Human Rights Commission (IHRC) urged Belgium to take on the importance of projects tackling discrimination against the Muslim community and recommended that the Muslims in Belgium should be allowed to practice Islam according to their religious belief, without the government interference or approval.<sup>105</sup>

54. IHRC reported that pupils wearing the headscarf in school, civil servants wearing the headscarf, and the wearing of the face veil and burka in public spaces were situations causing problems in Belgium. However, ICHR indicated that there was no national legislation regulating the wearing of religious symbols in Belgium. Bans had been introduced into regulations and by-laws by schools and local authorities. The majority of Belgian schools now prohibited pupils and teachers from wearing the headscarf. ICHR further reported on such bans in various parts of the country in public hospitals, education or local administration.<sup>106</sup>

55. AI expressed concerns about draft legislation banning the wearing of full-face veils in public and called on Belgium to withdraw this draft legislation and to take measures to ensure that all women are able to exercise their rights free from coercion, harassment and discrimination.<sup>107</sup>

56. Conscience and Peace Tax International (CPTI) reported that, although the Belgian Constitution mentioned the freedom of worship, it failed to protect freedom of conscience for individuals.<sup>108</sup> CPTI added that freedom of conscience was sacred for every Belgian but that there were outdated laws and regulations that continue to force certain individuals to support government activities that employ the use of lethal force.<sup>109</sup> CPTI recommended that Belgium remedy the lack of equal protection for the right to freedom of conscience.<sup>110</sup>

#### **6. Right to work and to just and favourable conditions of work**

57. CoE Commissioner stated that particular attention should be given to tackling the pay gap between men and women through reinforced policy measures.<sup>111</sup>

#### **7. Right to social security and to an adequate standard of living**

58. The European Committee of Social Rights (CoE-ECSR) noted that Belgium appointed a State Secretary for Poverty Prevention and that a federal anti-poverty plan was adopted in 2008. It was an action plan, which encouraged stakeholders to devise practical means of enabling everyone to have a decent standard of living. In addition, an inter-federal mechanism to measure poverty had been set up.<sup>112</sup>

59. JS1 reported on the high rate for children living below the poverty line in Belgium.<sup>113</sup> JS1 recommended that Belgium ensure that all families enjoy an adequate standard of living and that policies that have an impact on children's rights (housing, employment, education) be coordinated.<sup>114</sup>

60. CoE-ECSR indicated that budget allocated to health by Belgium was high<sup>115</sup> and that the principal causes of death were cancer and suicide.<sup>116</sup>

61. JS1 indicated that children from precarious families had poorer health status from early childhood. Access to health care was difficult because of financial, administrative, cultural and psychosocial reasons.<sup>117</sup>

62. JS1 reported that too few parents were informed on opportunities offered by hospitals with a paediatric ward. JS1 recommended that Belgium promote effective participation of hospitalized children in all areas of their life, generalize the presence of relatives at all times of hospitalization, humanize the emergency wards and regularly provide adequate information to sick children and their families.<sup>118</sup> JS1 further recommended that Belgium adopt the law on the rights of the patient in order to allow children to give an informed consent or refusal to their treatment.<sup>119</sup>

## **8. Right to education and to participate in the cultural life of the community**

63. JS1 reported on the existence of school fees and that measures taken to improve access to free education remained fragmented and that too many school dropouts were related to poverty. Education indicators confirmed that a child living in a very poor district was four times more likely to be oriented to a special needs education than a child living in an affluent district.<sup>120</sup>

64. JS1 recommended that Belgium provide free compulsory education, develop ways to support and remediation in schools, whenever a difficulty arise and fight against the grade repetition and negative orientations.<sup>121</sup>

65. JS1 reported that children with disabilities often had little choice in selecting schools. In 2009, the Government of the French Community adopted a decree, which proposed a series of measures to promote the integration of disabled children in education.<sup>122</sup>

66. CoE-ECRI reported that the disadvantage suffered by children of immigrant background in education was seen as being one of the challenges facing the Communities, which had responsibility for education.<sup>123</sup> CoE-ECRI recommended that Belgium pursue and step up their efforts to ensure that all children of immigrant background are afforded equal opportunities in access to education.<sup>124</sup>

67. JS1 reported that a number of unaccompanied foreign minors were excluded from the regular educational system. JS1 reported on the lack of transitional classes and that the certificate of eligibility which enabled the student to integrate a level of education corresponding to his abilities was only granted to asylum-seeking minors or recognized refugees. JS1 recommended that Belgium expand the definition of “newly arrived person” to all foreign minors in the territory to enable them to attend mainstream schools.<sup>125</sup>

68. JS1 stated many parents from low-income families could not afford recreation for their children, particularly the summer camps and that child poverty increased exclusion and misunderstanding.<sup>126</sup>

## **9. Migrants, refugees and asylum-seekers**

69. CoE Commissioner, while noting improvements since the legislative amendments of 2006, noted that the asylum process now took nine months on average.<sup>127</sup> CoE Commissioner expressed concerns at the marginal role retained by the Alien’s Office for deciding on asylum applications.<sup>128</sup> CoE Commissioner noted that the Council for Alien Disputes did not have investigative powers, and must instead consider appeals primarily on the basis of evidence compiled at first instance. It encouraged Belgium to make the asylum procedure more transparent including at the appeals stage.<sup>129</sup>

70. AI also stated that the existing system for dealing with individual complaints must be revised and legal advice services must be available inside the closed centres.<sup>130</sup> CoE Commissioner, CoE-ECRI and CoE-CPT made similar recommendations.<sup>131</sup>

71. CoE Commissioner stated that closed centres for aliens hold several categories of people, including aliens who do not satisfy conditions of entry and who may or may not have applied for asylum, people entering the country under the “Dublin system” and irregular migrants.<sup>132</sup> CoE Commissioner added that the detention of certain asylum-seekers appeared questionable especially since detention was systematic for many asylum-seekers.<sup>133</sup> Relating to irregular migrants, CoE Commissioner stated that the law stipulated an initial time limit of two months. A two-month extension might then be granted. By decision of the competent Minister, detention might be extended on a monthly basis up to a maximum duration of eight months.<sup>134</sup>

72. AI urged Belgium not to deprive asylum-seekers and irregular migrants of their liberty under immigration and/or administrative powers, except in the most exceptional circumstances and to further improve the living conditions in the closed centres.<sup>135</sup> CoE Commissioner described the detention conditions in the closed centres for migrants and notably urged Belgium to provide decent detention conditions conducive to respect for the privacy and autonomy of all detained aliens.<sup>136</sup> CoE-CPT described the complete lack of exercise in the open air and shortcomings in access to medical services for foreign nationals who had not had permission to enter Belgium, being lodged at the INAD centre at Brussels airport.<sup>137</sup>

73. In spite of a decision by the Minister of Migration Policy and Asylum according to which, families with children would no longer be detained in closed centres as of 1 October 2008, CoE Commissioner noted that some children and their parents were in fact still being detained.<sup>138</sup> JS1 recommended that Belgium end the detention of foreign children in detention centres for foreigners.<sup>139</sup> While welcoming the establishment of open facilities supervised by “coaches” for families with children, CoE Commissioner invited Belgium to allocate additional human and financial resources in order to ensure the outright success of such placements.<sup>140</sup>

74. AI reported that the federal government agency (Fedasil) had repeatedly been condemned by the administrative courts for failing to provide housing to asylum-seekers. Since the start of the crisis, 7,000 asylum-seekers, including children, had been left homeless, and while over a thousand were housed in hotels, they were not provided with medical, social or legal assistance. AI called on Belgium to comply with the minimum standards for the reception of asylum-seekers and to take immediate measures in order to respect asylum-seekers’ basic rights upon their arrival in Belgium.<sup>141</sup> JS1 raised similar concerns relating to foreign minors, both accompanied and unaccompanied.<sup>142</sup>

75. JS1 noted that the Public Guardianship Office was responsible for unaccompanied foreign minors (UFM) and appointed a guardian, who assisted them throughout their stay in Belgium and helped them with the legal proceedings.<sup>143</sup> JS1 notably recommended Belgium to increase the financial resources of the Guardianship Service and to better train and supervise the guardians.<sup>144</sup>

76. JS1 indicated that UFM were only issued with a very precarious residence permit or with an order to leave the territory that could sometimes be extended. JS1 recommended that Belgium grant true residence status to UFM as long as a durable solution in their best interests had not been found.<sup>145</sup>

77. Mentioning the case of an asylum-seeker who was returned to his country of origin in October 2010 despite he faced a risk of torture, AI called on Belgium to strictly observe the principle of non-refoulement.<sup>146</sup>

78. AI described the case of an asylum-seeker, who committed suicide in May 2008 after his asylum claim had been dismissed and before he should have been deported. He had lodged a complaint alleging ill-treatment further to a first attempt by the authorities to deport him. AI called on Belgium to ensure that all allegations of ill-treatment and excessive use of force were investigated and to introduce an independent and effective system for monitoring forced returns.<sup>147</sup>

79. While noting the actions taken to regularize irregular migrants, CoE Commissioner urged Belgium to clarify the undertakings that it made in this regard and to introduce a transparent, egalitarian procedure.<sup>148</sup>

#### 10. Human rights and counter-terrorism

80. While noting the 2003 Act on Terrorist Offences, CoE Commissioner recommended that the Act precisely define terrorist offences, and that the scope of special investigative methods be narrowly defined.<sup>149</sup> CoE Commissioner took note of a draft Royal Decree on data collection relating to counter-terrorism and made recommendations regarding the rights of the defence and the rights to respect for privacy.<sup>150</sup>

### III. Achievements, best practices, challenges and constraints

N/A

### IV. Key national priorities, initiatives and commitments

N/A

### V. Capacity-building and technical assistance

N/A

#### Notes

<sup>1</sup> The stakeholders listed below have contributed information for this summary; the full texts of all original submissions are available at: [www.ohchr.org](http://www.ohchr.org). (One asterisk denotes a non-governmental organization in consultative status with the Economic and Social Council.)

#### *Civil society*

AI	Amnesty International, London, United Kingdom*;
CPTI	Conscience and Peace Tax International, Leuven, Belgium*;
ECPAT	ECPAT international, Bangkok, Thailand*;
GIEACPC	The Global Initiative to End All Corporal Punishment of Children, London, United Kingdom;
IHRC	Islamic Human Rights Commission, Wembley, United Kingdom;
JS1	Joint submission 1: Coordination des ONG pour les droits de l'enfant (CODE); Kinderrechtencoalitie Vlaanderen; Brussels, Gent; Belgium;
OIP	Observatoire international des prisons, Brussels, Belgium.

#### *Regional organizations*

CoE	Council of Europe UPR submission <ul style="list-style-type: none"> <li>CoE-CPT: Rapport au Gouvernement de Belgique relatif à la visite effectuée en Belgique par le Comité européen pour la prévention de la torture et des peines ou traitements inhumains ou dégradants du 28 septembre au 7 octobre 2009, CPT/Inf (2010)24, 23 juillet 2010;</li> </ul>
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- CoE-ECSR: European Committee of Social Rights, Conclusions 2009 (Belgium), Articles 3, 11, 12, 13, 14 and 30 of the revised Charter, January 2010;
- CoE-Commissioner: Report by the Council of Europe Commissioner for Human Rights, on his visit to Belgium 15–19 December 2008, CommDH(2009)14, 17 June 2009;
- CoE-ECRI: European Commission Against Racism and Intolerance, Report on Belgium (fourth monitoring cycle) adopted on 19 December 2008, CRI(2009)18, 26 May 2009.

- <sup>2</sup> AI, p. 1.
- <sup>3</sup> ECPAT, pp. 1 and 3.
- <sup>4</sup> CoE Commissioner, para. 129; see also CoE-ECRI, paras. 2 and 8.
- <sup>5</sup> CoE-ECRI, para. 9.
- <sup>6</sup> CoE-ECRI, paras. 49 and 51.
- <sup>7</sup> AI, p. 1.
- <sup>8</sup> CoE-ECRI, para. 47.
- <sup>9</sup> CoE Commissioner, para. 126.
- <sup>10</sup> CoE Commissioner, para. 129.
- <sup>11</sup> CoE-ECRI, para. 51.
- <sup>12</sup> ECPAT, p. 2.
- <sup>13</sup> ECPAT, p. 2; see also CoE Commissioner, paras. 22 and 130.
- <sup>14</sup> CoE Commissioner, para. 25 and p. 32.
- <sup>15</sup> JS1, p. 1.
- <sup>16</sup> ECPAT, p. 1.
- <sup>17</sup> JS1, p. 1.
- <sup>18</sup> JS1, p. 10.
- <sup>19</sup> CoE Commissioner, paras. 109–112.
- <sup>20</sup> CoE-ECRI, para. 36.
- <sup>21</sup> CoE-ECRI, para. 42.
- <sup>22</sup> CoE-ECRI, para. 134.
- <sup>23</sup> CoE-ECRI, paras. 113–117.
- <sup>24</sup> CoE-ECRI, para. 162.
- <sup>25</sup> CoE-ECRI, paras. 87–103.
- <sup>26</sup> CoE-ECRI, paras. 104–106.
- <sup>27</sup> CoE-ECRI, para. 107.
- <sup>28</sup> CoE-ECRI, paras. 165–173.
- <sup>29</sup> CoE-ECRI, para. 177.
- <sup>30</sup> CoE-ECRI, paras. 96–101.
- <sup>31</sup> CoE-ECRI, para. 14.
- <sup>32</sup> CoE-ECRI, paras. 19, 22 and 180.
- <sup>33</sup> CoE Commissioner, paras. 123–129.
- <sup>34</sup> CoE-ECRI, paras. 75–82.
- <sup>35</sup> CoE-ECRI, paras. 83–86.
- <sup>36</sup> CoE-ECRI, paras. 52–61.
- <sup>37</sup> JS1, p. 9.
- <sup>38</sup> AI, pp. 3–4.
- <sup>39</sup> CoE-CPT, paras. 34–41.
- <sup>40</sup> CoE-CPT, paras. 84–87.
- <sup>41</sup> CoE Commissioner, paras. 29–31 and p. 32; see also CoE-ECRI, paras. 169–170 and 176.
- <sup>42</sup> CoE-CPT, paras. 88–89.
- <sup>43</sup> CoE-CPT, para. 91.
- <sup>44</sup> CoE-CPT, para. 129.
- <sup>45</sup> CoE-CPT, para. 26.
- <sup>46</sup> AI, p. 4; see also OIP, p. 1; CoE Commissioner, paras. 34–46; see also CoE-CPT, paras. 78–79 and 113.
- <sup>47</sup> OIP, p. 5.
- <sup>48</sup> OIP, p. 1.
- <sup>49</sup> CoE Commissioner, paras. 39 and 44.
- <sup>50</sup> CoE Commissioner, paras. 47–50.
- <sup>51</sup> CoE Commissioner, para. 54.

- 52 AI, p. 4.  
53 See also CoE-CPT, para. 80.  
54 OIP, p. 1.  
55 AI, pp. 4–5.  
56 OIP, p. 1.  
57 CoE Commissioner, para. 65.  
58 CoE-CPT, para. 79.  
59 CoE Commissioner, para. 67.  
60 JS1, pp. 6–7.  
61 CoE-CPT, paras. 164–170 and 193.  
62 CoE-CPT, para. 171.  
63 ECPAT, p. 3.  
64 ECPAT, p. 2.  
65 ECPAT, p. 2.  
66 ECPAT, p. 3.  
67 ECPAT, pp. 1–2.  
68 ECPAT, p. 3.  
69 ECPAT, p. 2.  
70 ECPAT, p. 3.  
71 CoE-CPT, para. 200.  
72 CoE-CPT, para. 203.  
73 OIP, p. 5; see also CoE Commissioner, para. 53.  
74 CoE Commissioner, paras. 119–122.  
75 GIEACPC, pp. 1–2; see also CoE Commissioner, paras. 141–142.  
76 JS1, p. 11.  
77 JS1, p. 10.  
78 AI, p. 5; OIP, p. 4; see also CoE Commissioner, para. 55.  
79 OIP, p. 4; see also CoE-CPT, para. 158.  
80 CoE Commissioner, paras. 57–58.  
81 CoE-CPT, para. 149.  
82 OIP, pp. 2–3.  
83 OIP, p. 3.  
84 OIP, p. 4.  
85 AI, p. 5; see also CoE Commissioner, para. 62.  
86 CoE-CPT, para. 87.  
87 CoE Commissioner, para. 14.  
88 CoE Commissioner, paras. 14–16.  
89 CoE Commissioner, paras. 32–33.  
90 CoE-CPT, paras. 18–22.  
91 JS1, p. 7.  
92 JS1, p. 7; see also CoE Commissioner, paras. 139–140.  
93 JS1, p. 8.  
94 CoE Commissioner, para. 140.  
95 JS1, p. 8.  
96 JS1, pp. 8–9.  
97 JS1, p. 9.  
98 JS1, p. 9.  
99 JS1, pp. 7–8.  
100 JS1, p. 8.  
101 CoE Commissioner, para. 138.  
102 JS1, p. 2.  
103 JS1, p. 3.  
104 JS1, pp. 2–3.  
105 ICHR, p. 5.  
106 ICHR, pp. 2–3; see also CoE-ECRI, para. 114.  
107 AI, p. 5.

- 108 CPTI, para. 2.3.  
109 CPTI, para. 2.13.  
110 CPTI, para. 2.15.  
111 CoE Commissioner, para. 118.  
112 CoE-ECSR, pp. 31–32  
113 JS1, p. 2.  
114 JS1, p. 3.  
115 CoE-ECSR, p. 13.  
116 CoE-ECSR, p. 12.  
117 JS1, p. 2.  
118 JS1, pp. 5–7.  
119 JS1, p. 10.  
120 JS1, p. 2.  
121 JS1, p. 3.  
122 JS1, p. 5.  
123 CoE-ECRI, para. 63.  
124 CoE-ECRI, para. 68.  
125 JS1, pp. 4–5.  
126 JS1, p. 3.  
127 CoE Commissioner, para. 70.  
128 CoE Commissioner, para. 71.  
129 CoE Commissioner, para. 73.  
130 AI, p. 2.  
131 CoE Commissioner, paras. 90 and 93; CoE-ECRI, para. 145; CoE-CPT, para. 64.  
132 CoE Commissioner, para. 74.  
133 CoE Commissioner, para. 79; see also CoE-ECRI, paras. 127–132.  
134 CoE Commissioner, para. 80.  
135 AI, pp. 1–2.  
136 CoE Commissioner, paras. 82–87.  
137 CoE-CPT, paras. 67–68.  
138 CoE Commissioner, para. 81.  
139 JS1, pp. 4–5.  
140 CoE Commissioner, paras. 98–101; see also CoE-CPT, para. 47.  
141 AI, p. 3.  
142 JS1, pp. 3–4.  
143 JS1, p. 4.  
144 JS1, pp. 4–5; see also CoE Commissioner, para. 103.  
145 JS1, pp. 4–5.  
146 AI, p. 2.  
147 AI, p. 3.  
148 CoE Commissioner, paras. 104–108; see also CoE-ECRI, para. 146.  
149 CoE Commissioner, paras. 143–144.  
150 CoE Commissioner, paras. 145–146.
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