

Dear Madam,  
Dear Sir,

Gent, 08.06.2015

The 'Liga voor Mensenrechten' (hereafter the 'Liga') submits this briefing to the United Nations (UN) Human Rights Council ahead of the examination of Belgium regarding their human rights obligations and commitments in the 24<sup>th</sup> session of the UPR Working Group.

The document highlights the main aspects of the ongoing concerns by the 'Liga' in Belgium regarding fundamental human rights issues. The 'Liga' is especially concerned about the excessive use of violence by police officials, ongoing overcrowding in detention facilities, the lack of treatment for mentally ill offenders and certain privacy issues. Furthermore, the recommendations made in the first cycle of the UPR regarding the establishment of a National Human Rights Institute and the ratification of the Optional Protocol of the Convention against Torture (OPCAT) are still not achieved in practice.

The 'Liga' is a human rights institution founded in 1979, born out of the 'Ligue Belge des Droits de l'Homme' (founded in 1901). The organisation is a relevant stakeholder in the assessment of the human rights situation in Belgium because the organisation is an experienced national watchdog with expertise in the areas of detention, privacy, freedom versus safety and discrimination. As such, the 'Liga' examines possible human rights violations in Belgium on a daily basis and initiates regularly judicial procedures to challenge national laws which violate human rights regulations. The organisation also raises awareness with public campaigns targeting the broad public. As a result, the 'Liga' is a valuable contributor in the examination of Belgium by the Universal Periodic Review.

**Contact details:**

Liga voor Mensenrechten vzw (League of Human Rights)  
Gebroeders De Smetstraat 75  
9000 Gent, Belgium  
Tel: +32 (0)9 223 07 38  
Website: [www.mensenrechten.be](http://www.mensenrechten.be)

Please feel free to contact the 'Liga' if further questions may occur, we remain at your disposal to answer any further queries you may have.

Sincerely,

Liga voor Mensenrechten

## I. Main issues of concern and recommendations

1. The Belgian government stated in the first UPR cycle that the possibility of creating a national human rights institution was under consideration and that specialized human rights mechanisms were being analysed with that aim in mind. Several years later, progress in this matter and the establishment of a national human rights institutions is still lacking. Taken in mind the challenging institutional structure of Belgium, a substantive amount of time has passed since the last UPR examination to overcome this issue.
2. Despite the recommendations at the previous UPR examination of Belgium where the Belgian government indicated to look forward to ratifying the Optional Protocol to the Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment (OPCAT) and the establishment of a national preventive mechanism (NPM). The 'Liga' wants to draw the attention of the UPR Working Group to the absence of ratification by the Belgium government of OPCAT. Furthermore, there is also a lack in progress in the establishment of an NPM, as envisioned in OPCAT.

*The 'Liga' recommends that the Belgian authorities:*

- *Respect the commitments of the first UPR cycle regarding the establishment of a national human rights institution. The 'Liga' therefore inquires further explanations to clarify the lack of progress in this matter and further asks what additional measures has been taken since the first UPR examination.*
- *Take all the necessary steps to establish a national human rights institution, fully compliant with the Paris Principles.*
- *Clarify the lack of progress in the ratification process of OPCAT. The 'Liga' further recommends the authorities to take all necessary measures to promptly ratify OPCAT and to establish an NPM. The option to expand the mandate of the Federal Ombudsman (Médiateur Fédérale) and designate it with the tasks of the NPM should be reconsidered. In doing this, allocating additional resources (both financial and human) to carry out effectively the NPM mandate are necessary.*

## II. Police violence

3. The excessive use of violence by police officials is an issue of ongoing concern. The case of Jonathan Jacob<sup>1</sup> was an extreme case where the excessive use of violence had tragic consequences. The 'Liga' documented several cases where people were the victims of mental and physical violence by police officials. Furthermore, the excessive use of force during manifestations by police is an ongoing problem.

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<sup>1</sup> Mr. Jonathan Jacob, aged 26, died in a police holding cell as a result of a violent intervention by the special intervention unit of the Antwerp local police. The coroner's report showed how the death was the result of internal bleeding caused by the blows to the body caused by the members of the special intervention unit.

*The 'Liga' recommends that the Belgian authorities:*

- *Encourages Belgium to take measures regarding the identification obligation of police officials where they have a duty to be always identifiable especially during special interventions and when they are not operating in uniform.*

### **III. Prisons and detention facilities**

4. Despite measures by the government and the opening of new detention facilities, the problem of prison overcrowding persist. Especially the large amount of pre-trial detainees being incarcerated while awaiting trial is an issue of major concern. The problem of prison overcrowding is continuous being tackled from the perspective of increasing capacity through the construction of new large detention facilities (Beveren, Leuze-en-Hainaut et Marche-en-Famenne), which do not fit a sustainable detention model. Already in 1975 the United Nations Social Defence Research Institute highlighted that large facilities equalise routine, uniformity and standardisation which go against an individual approach towards detention. The sphere of anonymity results in feelings of being powerless, isolation, bitterness and detention is perceived as meaningless. The 'Liga' positively embraces the thinking behind the project 'De Huizen' ('Les Maisons'): a constructive proposal to encourage small detention facilities who are embedded in society.
5. The 'Liga' received numerous complaints by Belgian detainees and their families who are being deprived of their liberty in the prison of Tilburg (the Netherlands). When the 'Liga' visited the prison the poor quality of food, cells where up to eight persons are locked up together, the long travelling distance for their families, the forced character of the transfer to the Tilburg prison, and difficulties working on a reintegration plan due to the lack in presence of the Flemish community were witnessed. These circumstances can potentially endanger reintegration purposes.
6. The Central Prison Monitoring Council and monitoring bodies for each prison (Commissions de Surveillance) were established by Royal Decree (4 April 2003). They are tasked with monitoring the treatment of detainees and supervising the adherence to the regulations in force. Observations are reported to the Minister of Justice and the Federal Parliament, and the Commissions can present recommendations on penal matters. In practice, the functioning of the Commissions and the Council is flawed. The latest report of the Central Prison Monitoring Council dates from 2008-2010 so there is a substantial delay in reporting. In certain prison facilities the Commission functions adequately but in other facilities the Commission only exist on paper and do not meet on a regular basis. As such, complaints of prisoners are disregarded which raises several serious concerns regarding its effectiveness. The power to appoint the members of these Commissions lays with the

Minister of Justice which raises serious concerns regarding the independent nature of these monitoring bodies. Furthermore, these Commissions lack adequate funding and are dependent upon volunteers who do not receive any training.

7. The 'Liga' is concerned about the de-radicalisation sections in the facilities of Ittre and Bruges for radicalised prisoners with the main aim to isolate these prisoners from the general population. The 'Liga' wants to highlight the risks of concentrating such a population and stresses the purpose of sentence execution based on differentiation and social, mental and religious guidance for radicalised prisoners.
8. The 'Liga' welcomes the functioning of the new forensic psychiatric centre in Ghent. Despite this new facility, thousands of mentally ill offenders are still deprived of their liberty in normal prisons without the necessary and appropriate medical care. As a result, the government still fails to provide prisoners with intellectual or psychological disabilities or mental disorders with the care they are entitled to by law. The Commission on the Prevention of Torture (CPT) stressed in 2012 that prisoners with mental disorders should benefit from treatment with an individual-based approach. The CPT however remarked that proper individual treatment of mentally ill offenders is often underdeveloped or completely lacking in the psychiatric wings of penal institutions due to lack of qualified staff and adequate infrastructure.<sup>2</sup> The case of Frank Van den Bleeken, a mentally ill offender who needs long term treatment, requesting euthanasia highlights a broader ongoing deficiency in the lack of appropriate treatment strategies and policies for mentally ill offenders. The lack to provide an appropriate treatment for mentally ill offenders in need of a long term treatment, amounts to unnecessary suffering and hardship.

*The 'Liga' recommends that the Belgian authorities:*

- *An annual report by the Central Public Supervisory Council to the national Parliament which should be publicly available.*
- *Guarantee the independence of the Central Prison Monitoring Council and the Commissions de Surveillance and to ensure adequate funding for the mechanisms to effectively carry out their mandates.*
- *Not tackle overcrowding issues purely from an increasing capacity point of view but to invest in an increased use of alternative non-custodial sentences which go beyond the use of electronic monitoring.*
- *Develop a detention model for the execution of sentences for radicalised prisoners based on differentiation and social, mental and religious guidance.*
- *Abstain from its policies where mentally ill offenders are being locked up in normal prisons among the normal prison population with no adequate treatment available.*

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<sup>2</sup> CPT/Inf (2012) 36, para. 37.

- *Provide sufficient places in specialised institutions with qualified staff for prisoners with intellectual or psychological disabilities or mental disorders and to provide them with the care and treatment they are entitled to by law.*
- *Install specific treatment programs for mentally ill offenders who need long term medical care and treatment.*

#### **IV. Privacy**

Regarding the concerns and recommendations on privacy issues, the ‘Liga’ refers to the stakeholder report “The Right of Privacy in Belgium”, which the ‘Liga’ submitted in collaboration with Privacy International and the Ligue des droits de l’Homme.