



BELGIUM

AMNESTY INTERNATIONAL SUBMISSION TO THE UN UNIVERSAL PERIODIC REVIEW

38TH SESSION OF THE UPR WORKING GROUP, MAY 2021

FOLLOW UP TO THE PREVIOUS REVIEW

1. Belgium consulted with civil society in the UPR follow-up process, most notably by hosting a roundtable meeting at the end of 2019. The state published a short report by way of mid-term-evaluation.¹
2. Belgium made significant progress on recognizing the human rights of transgender people by removing degrading and unnecessary medical requirements from its laws but some obstacles remain in place.²
3. Belgium achieved important but unfinished progress towards establishing a National Human Rights Institution fully compliant with the Paris Principles.³ The state also made improvements to prison oversight mechanisms and prisoners' legal status.⁴
4. Despite these positive points, Amnesty International considers Belgium's overall efforts on key recommendations made during the previous review to have been slow and insufficient. The continued delays in ratifying the Optional Protocol to the Convention Against Torture (OPCAT)⁵ and failure to adopt a National Action Plan Against Racism⁶ are telling examples.
5. Belgium took regressive steps regarding the detention of migrants⁷ and continued to flout the principle of non-refoulement.⁸

THE NATIONAL HUMAN RIGHTS FRAMEWORK

Human Rights Institution

6. Amnesty International cautiously welcomed the creation in 2019 of the Federal Human Rights Institute (FHRI), which held its inaugural meeting on 2 September 2020.⁹
7. The FHRI cannot be considered to be fully compliant with the Paris Principles because the FHRI has not been "given as broad a mandate as possible".¹⁰ The Institution only covers "fundamental rights that fall under federal competency" and additionally cannot work on matters that "are dealt with by sectoral institutions for the promotion and the protection of human rights."¹¹
8. The law's preparatory works and the law itself explicitly anticipate widening the mandate through cooperation agreements between the federal and the regional authorities.
9. Amnesty International also regrets that the FHRI has not been mandated with setting up an individual complaints procedure.

Detention monitoring

10. The OPCAT remains unratified, although all necessary legislative steps have been completed.¹² The instrument of ratification had not been deposited at the time of writing. The government first wants to establish a National Preventative Mechanism (NPM).¹³
11. Belgium did make progress on improving the oversight mechanisms for prisons by reforming the Central Prison Monitoring Council (CPMC). The scope of the CPMC is limited to the 35 federal prisons in Belgium. Other places of detention are not covered by the CPMC's mandate.¹⁴ The relation between the CPMC and a future NPM remains unclear.¹⁵

Business & Human Rights

12. Belgium's first National Action Plan to implement the UN Guiding Principles on Business and Human Rights, adopted in 2017, focused primarily on awareness-raising and its action points were strictly voluntary. The plan is due to be reviewed in 2020 or 2021.¹⁶
13. Belgian law does not require companies to conduct human rights due diligence in their global operations or supply chains or to report publicly on the steps taken.¹⁷

THE HUMAN RIGHTS SITUATION ON THE GROUND

Rape and other forms of gender-based violence

14. Amnesty International remains deeply concerned about the high prevalence of rape and other sexual violence.¹⁸ A 2019 survey commissioned by Amnesty International and SOS Viol showed that of those who responded, 24% of young people in Belgium (15 to 24 years old), 20% of women and 14% of men claimed to have been raped.¹⁹ In 2019 an all-time high of 4,664 complaints for rape were registered with the police.²⁰ Many of these complaints do not lead to prosecutions and court cases, though the ratio of decisions not to prosecute has decreased from 54.08% in 2017 to 31.78% in 2019.²¹
15. The increased willingness to report sexual violence to the police may be partly due to initiatives aimed at tackling the problem and to increased awareness about sexual and reproductive rights.²² In November 2017, the authorities established three "Centres for Care after Sexual Violence", in Brussels, Ghent and Liège. Civil society praised plans to establish seven more centres between 2021 and the end of 2023.^{23,24} Another positive step is the new legal requirement for magistrates to follow a training course on sexual violence.²⁵
16. There may have been an increase in domestic violence in the context of COVID-19 response measures, and the lockdown certainly made the problem more visible. Helplines reported spikes in the number of calls about domestic violence they received.²⁶ Civil society organisations²⁷, academia²⁸, regional and federal governments took steps to monitor the problem, to raise awareness and to facilitate access to assistance for survivors and witnesses.²⁹

Counter terrorism

17. Belgian policies and laws aimed at countering terrorism and "radicalisation" are developed and put into practice in a complex constitutional and institutional context. The complexity and fragmentation of these policies can exacerbate the inherent human rights risks, increasing the importance of coordination, oversight and periodic review.³⁰

18. The March 2016 bombings revealed serious shortcomings in the mechanisms to ensure that victims' rights are respected. Victims' associations and Amnesty International called upon the government to establish mechanisms that ensure swift compensation and simple, easily accessible procedures.³¹ The UN Special Rapporteur for the promotion and protection of human rights and fundamental freedoms while countering terrorism also recommended further legislative reforms.³²

Policing

19. Ethnic profiling by police, which violates the right to be free from discrimination, remains a problem.³³ Amnesty's research shows that police officers acknowledge the practice exists and that the legal and policy framework for decision-making by police officers provides insufficient guidance. Though testimonies are common³⁴, the full extent of the problem is hard to assess since authorities have failed to collect thorough and disaggregated data. The absence of data on identity checks particularly hampers an adequate response to the problem.³⁵
20. Jozef Chovanec died following a violent police intervention in a holding cell at Charleroi airport in February 2018. Leaked video footage of the intervention showed police officers joking and one officer making a Nazi-salute next to the man as he is being restrained by several colleagues.³⁶ A criminal investigation is ongoing but it was only after the footage was leaked – in August 2020 - that provisional measures were taken against the officers.³⁷ The Committee Against Torture had already expressed its concern over how the death of Jonathan Jacob, in similar circumstances in 2010, had been handled by Belgian authorities.³⁸
21. In 2017 and 2018 Doctors of the World and Amnesty International received numerous credible allegations of ill-treatment by police against migrants and asylum seekers transiting through Belgium.³⁹
22. Amnesty International is concerned that law enforcement officials resorted to unlawful use of force in enforcing the lockdown measures aimed at protecting public health in the context of the COVID-19 pandemic.⁴⁰

Right to Asylum and Migration

23. Between September and December 2017, Belgium violated the principle of non-refoulement by returning Sudanese nationals to Sudan without carefully assessing the risk of torture and other ill-treatment or other serious human rights violations upon return, and by allowing Sudanese government officials to interview and help identify supposed Sudanese citizens before making any such assessment.⁴¹ The Commissioner General for Refugees and Stateless Persons (CGRS) was tasked with an investigation of these returns. The CGRS concluded it could not confirm or deny allegations of ill-treatment but found shortcomings in the risk assessment prior to the return of the Sudanese nationals, and criticised aspects of the collaboration with the Sudanese identification mission.⁴²
24. A temporary commission was set up to evaluate Belgium's policies and practices in relation to voluntary return and forcible removal of foreigners. Except for its president, the Commission consisted exclusively of representatives from government services. The interim report it released in February 2019 was an overview and defence of existing practice and policy.⁴³ The Commission's final report, presented to Parliament in September 2020, contained worrying recommendations calling for a repressive approach focussed on detention and forced removal, including by raising the possible punishment for irregular stay to one year imprisonment.⁴⁴ Civil society organisations criticised the Commission's narrow and partial approach and had hosted an alternative conference in September 2019, presenting a report outlining six key human rights compliant recommendations.⁴⁵
25. With the entry into force of a Royal Decree on 11 August 2018, Belgium resumed the practice of detention of family units for migration purposes.⁴⁶ The absence of an executive decree had effectively ended detention of children for migration purposes in Belgium since 2011. Families with children can now be detained as a measure

of last resort, following exhaustion of other measures including alternatives for detention. On 4 April 2019, the Council of State suspended the Royal Decree. The practice of family detention is again suspended awaiting the decision on the annulment.⁴⁷ The detention of children for migration purposes is strictly prohibited in international law as it can never be in their best interests.⁴⁸ In addition: “Children must not be separated from their parents and/or legal guardians. The detention of children whose parents are detained should not be justified on the basis of maintaining the family unit, and alternatives to detention must be applied to the entire family instead.”⁴⁹

26. Belgian immigration law provides for the possibility to detain, under certain conditions, asylum seekers, and irregular migrants, including rejected asylum seekers, awaiting removal. Legally, detention of asylum seekers and migrants awaiting removal is only possible when no other, less coercive, measures can be affected. However, very few “less coercive measures”, or alternatives to detention, are available in Belgian law. Therefore, Belgian law and practice are lacking real alternatives for detention of migrants and asylum seekers.⁵⁰ Amnesty International is concerned that migration detention is not used as a measure of last resort in Belgium.

Arms Transfers

27. Belgium’s Wallonia region⁵¹ continued to authorise arms transfers to members of the Saudi Arabian-led coalition in Yemen, where the weapons may be used to commit or facilitate serious violations of international human rights or humanitarian law. Saudi Arabia is the Walloon region’s most important client for arms transfers. Amnesty International also documented Minimi-machine guns that were likely sold by Belgium to the UAE in the hands of unaccountable Yemeni militias that stand accused of serious human rights violations.⁵²

Detention

28. Conditions of detention in prisons remained worrying due to overcrowding, dilapidated facilities and insufficient access to basic services.⁵³ In addition, staff shortages, lack of adequate financial resources, poor staff security and violence by prisoners have led on several occasions to prison staff going on strike. In the absence of proper mechanisms to care for prisoners during strikes, industrial actions often had a negative impact on detention conditions, health and security for detainees.⁵⁴ A new law entered into force in July 2019 aimed at installing a so-called minimum service during industrial action that requires the provision of certain minimum services to be guaranteed to detainees during prison staff strikes.⁵⁵
29. Measures including extending furloughs and early release in response to the COVID-19 pandemic had a positive effect on overcrowding in prisons. Other measures aimed at avoiding the virus’ spread inside the penitentiary system limited the rights of detainees, for instance by severely reducing detainees’ contact with relatives. In some places of detention, there were serious concerns about inadequate provision for the maintenance of personal hygiene.⁵⁶

Rights of older persons in care homes

30. At the end of September, just over 10,000 people were estimated⁵⁷ to have died from COVID-19 in Belgium. Over two thirds of those deaths were of people living in care homes, most of whom died in the care homes - not in hospital.⁵⁸ In April, following worrying media reports about the conditions in care homes, Amnesty International called upon the authorities to ensure the human rights of older persons during the pandemic.⁵⁹ Doctors Without Borders provided support in 135 Belgian care homes and concluded: “these [care homes] were forced to close themselves off and to transform into improvised hospitals, but without the necessary preparation, knowledge or resources – human as well as material.”⁶⁰ The organisation also reported serious inadequacies in preparedness, strategy and capacity, and stated that these shortcomings surely led to avoidable death and immense suffering by care home residents, their families and staff.⁶¹ Testimonies gathered by the Flemish Ombudsservice described

how chaos characterised the first months of the pandemic and underlined that residents as well as staff and leadership of care homes felt abandoned and that the conditions and measures taken were often irreconcilable with the human dignity of residents.⁶² At the time of writing, parliamentary commissions were investigating shortcomings.

RECOMMENDATIONS FOR ACTION BY THE STATE UNDER REVIEW

Amnesty International calls on the government of Belgium to:

Human Rights Institution

- Reform the Federal Human Rights Institute so that it is fully compliant with the Paris Principles, including by ensuring that all human rights issues are within its mandate, including regional competencies and transversal issues.
- Require that the Federal Human Rights Institute establish an individual complaints procedure.

OPCAT – preventative mechanism

- Ratify the Optional Protocol to the Convention Against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment, without further delays and without any reservations.
- Establish as a matter of priority a National Preventative Mechanism that can monitor all places where people are deprived of their liberty.

National action plan against racism and other forms of discrimination

- Elaborate, adopt, and implement in close consultation with civil society stakeholders, a National Action Plan against racism and related forms of discrimination.

Business & Human Rights

- Adopt legal and policy reforms to require business enterprises domiciled or headquartered in Belgium to respect human rights and to carry out human rights due diligence throughout their global operations and supply chains.

Rights of LGBTI individuals

- Take further legislative steps to ensure legal gender recognition happens through a quick, transparent and accessible procedure.

Rape and other forms of gender-based violence

- Fully implement the Istanbul Convention through a sufficiently funded and detailed National Action Plan on Gender-based violence.
- Ensure care centres for survivors of sexual violence are established in places that are easily accessible from all over the country and ensure that all such centres receive structural and sufficient financing.

Counter terrorism

- Adopt further legislative reforms to ensure adequate redress for victims of terrorism through simple, easily accessible procedures.
- Ensure rigorous and systematic oversight of policies to counter terrorism and “radicalisation”, including by a fully competent national human rights institution and by Parliament.

Policing

- Amend the Police Act by incorporating an explicit prohibition of direct and indirect discrimination, and by explicitly prohibiting ethnic profiling.
- Take steps in policy and practice to combat ethnic profiling.
- Register identity checks by police and collect data to monitor and research their use.
- Commission an independent and comprehensive review into serious incidents and deaths in custody and following contact with the police, and report publicly on the findings.
- Strengthen supervision and monitoring mechanisms for the police.
- Ensure the coercive enforcement of measures to protect public health is only considered as last resort.

Asylum & Migration

- Scrupulously observe the principle of non-refoulement by not forcibly returning any person, in any manner whatsoever, to a country where they would be at real risk of serious human rights violations.
- Establish a permanent commission to monitor and review return policies, with a broad mandate and a representative membership including civil society and independent experts.
- End the practice of immigration detention of families with children and develop and improve less coercive measures.
- Ensure migration detention is only used as a measure of last resort and develop alternatives for detention of migrants and asylum seekers.

Arms Transfers

- Halt any arms transfers when there is a substantial risk that the weapons will be used to commit or facilitate serious violations of international human rights law or humanitarian law.
- Increase transparency on licenses for arms transfers to allow for public scrutiny of decision-making processes.

Detention

- Intensify efforts to end prison overcrowding and ensure all prison facilities and detention conditions are in line with international standards.

Rights of older persons in care homes

- Ensure a comprehensive, effective and independent review into Belgium's response to the COVID-19 pandemic and provide adequate and accessible remedy for any human rights violations as a result of acts of omission and commission as part of the government's COVID-19 response.
- Ensure that the public health system is adequately funded and staffed, and that care homes have sufficient specialised and trained staff, adequately equipped to guarantee respect for the rights of older persons living in care homes.
- Ensure that the human rights of older persons and residents of care homes are respected, including by ensuring that any restrictions on those rights are provided by law, necessary and proportionate to meet a legitimate aim.
- Publicly demonstrate that all policies and measures in response to COVID-19 (or another public health crisis) are in line with international human rights law and standards.

ANNEX

Key Amnesty International publications since previous review:

Amnesty International, *Report 2015/16: The state of the world's human rights*, 23 February 2016, <https://www.amnesty.org/en/documents/pol10/2552/2016/en/>

Amnesty International Belgium, *Prisons : une pétition pour des solutions rapides*, 19 May 2016, <https://www.amnesty.be/infos/actualites/article/prisons-une-petition-pour-des-solutions-rapides>

Amnesty International, *Belgium: action needed to uphold repeated human rights promises. Human Rights Council adopts Universal Periodic Review outcome on Belgium*, 27 June 2016, <https://www.amnesty.org/en/documents/EUR14/4349/2016/en/>

Amnesty International, *Europe: Wearing the headscarf in the workplace: Observations on discrimination based on religion in the Achbita and Bougnaoui cases*, 28 October 2016, <https://www.amnesty.org/en/documents/eur01/5077/2016/en/>

Amnesty International, *Europe: Dangerously disproportionate: The ever-expanding national security state in Europe*, 17 January 2017, <https://www.amnesty.org/en/documents/eur01/5342/2017/en/>

Amnesty International, *Report 2016/17: The state of the world's human rights*. 22 February 2017, <https://www.amnesty.org/en/documents/pol10/4800/2017/en/>

Amnesty International, *Belgium: A significant step on road to recognising transgender rights*, 25 May 2017, <https://www.amnesty.nl/actueel/belgium-a-significant-step-on-road-to-recognising-transgender-rights>

Amnesty International, *Etnisch profileren bij de politie – analyse van het juridische kader in België*, July 2017, https://www.amnesty-international.be/sites/default/files/bijlagen/etnisch_profileren_bij_de_politie_analyse_van_het_juridisch_kader_in_belgie_0.pdf

Amnesty International, *Belgium: Returns to Sudan violated principles of non-refoulement*, 30 January 2018, <https://www.amnesty.org/en/documents/eur14/7811/2018/en/>.

Amnesty International, *Report 2017/18: The state of the world's human rights*, 22 February, <https://www.amnesty.org/en/documents/POL10/6700/2018/En/>

Amnesty International, *On ne sait jamais, avec des gens comme vous: Politiques policières de prévention du profilage ethnique en Belgique* May 2018, https://www.amnesty.be/IMG/pdf/rapport_profilage_ethnique.pdf. (*English Exec. Summary available*),

Amnesty International Belgium, *Mensenrechten en het Belgische terugkeerbeleid – Bijdrage aan Commissie 'Terugkeer'*, 18 June 2018, https://www.amnesty-international.be/sites/default/files/bijlagen/final_amnesty_international_opmerkingen_commissie_terugkeerbeleid.pdf

Amnesty International, *La situation des droits humains en Belgique en 2018*, 12 December 2018, <https://www.amnesty.be/infos/rapports-annuels/droits-humains-2018/article/la-situation-des-droits-humains-en-belgique-en-2018>

Amnesty International, *When Arms Go Astray – the deadly new threat of arms diversions to militias in Yemen*, February 2019, <https://arms-uae.amnesty.org/en/>

Amnesty International, *Arms shipment to Saudi Arabia flouts multiple EU states' Arms Trade Treaty obligations*, 13 May 2019, <https://www.amnesty.org/en/latest/news/2019/05/arms-shipment-to-saudi-arabia-flouts-multiple-eu-states-arms-trade-treaty-obligations/>

Amnesty International, *Belgium: Submission to the United Nations Human Rights Committee*, 13 September, <https://www.amnesty.org/en/documents/eur14/1041/2019/en/>

Dedicated - Amnesty International Belgium and SOS Viol. *Etude des opinions et des comportements de la population belge en matière de violences sexuelles – octobre 2019*, March 2020, <https://www.amnesty.be/campagne/droits-femmes/viol/article/sondage-viol-chiffres-2020>

Amnesty International Belgium, *Dossier seksueel geweld in België 2020*, March 2020, https://www.amnesty-international.be/sites/default/files/bijlagen/amnesty-international_dossier-seksueel-geweld-in-belgie-2020_2.pdf

Amnesty International, *Europe: Human rights in Europe - review of 2019*, 16 April 2020, <https://www.amnesty.org/en/documents/eur01/2098/2020/en/>

Amnesty International Belgium, *Persbericht: Eén maand lockdown – voorlopige balans voor de mensenrechten in België*, 18 April 2020, https://www.amnesty-international.be/sites/default/files/bijlagen/longread_1_maand_lockdown_0.pdf

Amnesty International, *Observatoire des armes wallonnes - Walloon arms monitor*, 26 May 2020, <https://www.amnesty.be/campagne/pour-contrôle-ventes-armes/campagne-wallonie-immorale/walloon-arms-monitor>

11.11.11, Amnesty International Belgium, Avocats.be, Beweging.net, Caritas International Belgium, CNCD, JRS, Liga voor Mensenrechten, Ligue des droits humains, Minerva, Nansen, Orbit, Plate-Forme Mineurs en Exil, Point d'Appui, UNICEF and Vluchtelingenwerk Vlaanderen, *Au-delà du retour – A la recherche d'une politique digne et durable pour les personnes migrantes en séjour précaire ou irrégulier*, June 2020, https://www.amnesty.be/IMG/pdf/20200611_fr_au-dela_du_retour.pdf

Amnesty International, *Europe: Policing the pandemic: Human rights violations in the enforcement of COVID-19 measures in Europe*, 24 June 2020, <https://www.amnesty.org/en/documents/eur01/2511/2020/en/>

¹ A/HRC/32/8 Recommendation 138.53 (Poland). Following the first round of the UPR, Belgium published a [more comprehensive](#) mid-term review, available at http://lib.ohchr.org/HRBodies/UPR/Documents/session11/BE/BelgiumImplementation_fr.pdf. The mid-term evaluation of the second cycle, *2ème EPU de la Belgique : évaluation à mi-parcours - 19 décembre 2019* is available at <http://lib.ohchr.org/HRBodies/UPR/Documents/Session24/BE/BEUPR2midtermrapport.docx>.

² A/HRC/32/8 Recommendations 138.105 (Israel) - 138.106 (Spain) – The law of 25 June 2017 removed the most intrusive medical requirements for legal gender recognition. A Constitutional Court decision annulled part of the law because it discriminated against gender-fluid and non-binary persons. The law remains in force. Legal steps are required within a reasonable amount of time. The law is available at http://www.ejustice.just.fgov.be/cgi_loi/change_lg.pl?language=fr&la=F&cn=2017062503&table_name=loi

³ A/HRC/32/8 Recommendations 138.21 (Ecuador), 138.22 (Fiji), 138.23 (Tunisia), 138.24 (Hungary), 138.25 (Nepal), 138.26 (Slovenia), 138.27 (Philippines), 138.28 (Republic of Korea), 138.29 (Denmark), 138.30 (Georgia), 138.31 (Netherlands), 138.32 (Egypt), 138.33 (Togo), 138.34 (Morocco), 138.35 (India), 138.36 (Norway), 138.37 (Australia), 138.38 (Ireland), 138.39 (Kazakhstan), 138.40 (Namibia),

138.41 (Bulgaria), 138.42 (Germany), 138.43 (South Africa), 138.44 (Panama), 138.45 (Portugal), 138.46 (Chile), 138.47 (France), 138.48 (Uruguay), 138.49 (Lithuania), 138.50 (Indonesia), 138.51 (Bahrain), 138.52 (Kyrgyzstan).

⁴ A/HRC/32/8 Recommendations 138.3 (Norway), 138.4 (Kazakhstan), 138.5 (Liechtenstein); 139.11 (Bulgaria) & 141.18 (Fiji) (noted)

⁵ A/HRC/32/8 Recommendations 138.1 (D.R. Congo), 138.2 (Chile), 138.3 (Norway), 138.4 (Kazakhstan), 138.5 (Liechtenstein), 138.6 (Togo), 138.7 (United Kingdom), 138.8 (Denmark), 138.9 (FYR Macedonia), 138.10 (Morocco), 138.11 (Slovenia), 138.12 (Djibouti), 138.13 (Philippines), 138.14 (Portugal), 138.15 (Senegal), 138.16 (Tunisia) (Azerbaijan) (Ukraine) (Zambia) (Estonia) (France) (Georgia) (Honduras) (Hungary) (Lebanon) (Lithuania) (Montenegro) (Poland), 138.17 (Costa Rica), 140.1 (Czech Republic).

⁶ A/HRC/32/8- Recommendations 140.11 (Brazil), 140.12 (Uzbekistan), 140.13 (South Africa), 140.14 (Botswana), 140.15 (Côte d'Ivoire), 140.16 (France), 140.17 (Iran), 140.18 (Namibia), 140.19 (Norway). Since the 2001 World Conference against Racism in Durban, Belgian authorities have repeatedly stated their intention to formulate a national action plan against racism. There has been limited progress. A 2016 study commissioned by the government was presented as preparatory to the Action Plan and in February 2020, the 'Inter-Ministerial Conference Against Racism' was established. The Conference provides the government members of the federal and federated entities a forum for coordinating measures against racial discrimination, antisemitism, faith-based discrimination and intersectional discrimination. On 27 September 2020, the Inter-Ministerial Conference adopted a 'Starting Note' (see Bart Somers, *Startnota interfederaal actieplan tegen racisme goedgekeurd*, 27 September 2020, <https://www.bartsomers.be/nieuws/interfederaal-actieplan/?lid=6249>).

⁷ Related recommendations include: A/HRC/32/8 Recommendations 139.24 (Chile) and 139.25 (Mexico), 140.34 (Japan).

⁸ A/HRC/32/8 Recommendation 139.26 (Argentina).

⁹ *Loi de 12 mai 2019 portant création d'un Institut fédéral pour la protection et la promotion des droits humains*, http://www.ejustice.just.fgov.be/cgi_loi/change_lg.pl?language=fr&la=F&cn=2019051210&table_name=loi. The inaugural meeting was held on 2 September 2020. RTBF, *Olivier De Schutter devient président du nouvel Institut des droits de l'Homme*, 3 September 2020, https://www.rtbf.be/info/belgique/detail_olivier-de-schutter-devient-president-du-nouvel-institut-des-droits-de-l-homme?id=10575879

¹⁰ Point 2 of the Principles relating to the Status of National Institutions. (The Paris Principles). Adopted by General Assembly resolution 48/134 of 20 December 1993, <https://www.ohchr.org/en/professionalinterest/pages/statusofnationalinstitutions.aspx>

¹¹ Article 4 §1 of the Law of 12 May 2019. The law does not specify the intended institutions nor which rights would thus fall outside of the mandate of the FHRI. The preparatory works indicatively list: (1) the inter-federal equality body [Unia](#) (with B-status NHRI-accreditation); (2) the federal migration centre ([Myria](#)), (3) the national [Combat Poverty, Insecurity and Social Exclusion Service](#); (4) the federal [Institute for the Equality between Women and Men](#); (5) the (federal) Data Protection Entity ([DPA](#)); (6) the (inter-federal) [National Commission on the Rights of the Child](#); (7) the (federal) [Standing Intelligence Agencies Review Committee](#) (Committee I); (8) the (federal) [Central Monitoring Council for the Penitentiary System](#); (9) the Flemish Children's Rights [Commissioner](#) and (10) General 'Délégué' for the rights of the child for French speaking Belgium, (11) Ombuds-services at [Federal](#), (12) [French Speaking Community](#) and Walloon region and (13) [German Speaking Community](#) level. Source: preparatory works to the Law of 12 May 2019 (DOC 543670/001), <http://www.dekamer.be/FLWB/PDF/54/3670/54K3670001.pdf>.

¹² Parliamentary Works of the law assenting to the OPCAT - 54-3192, <http://www.dekamer.be/kvvcr/showpage.cfm?section=flwb&language=fr&cfm=/site/wwwcfm/flwb/flwbn.cfm?dossierID=3192&legislat=54&inst=K>. The parliamentary assemblies of the Regions and Communities had previously assented to ratifying OPCAT: Brussels Capital Region (Ordonnance du 27 juillet 2017, http://www.ejustice.just.fgov.be/mopdf/2017/09/12_1.pdf#Page125); Walloon Region (Décret du 13 mars 2014, http://www.ejustice.just.fgov.be/mopdf/2014/03/27_2.pdf#Page88 and Décret du 13 mars 2014 (2), http://www.ejustice.just.fgov.be/mopdf/2014/03/27_2.pdf#Page90); French Speaking Community (Décret du 27 février 2014, http://www.ejustice.just.fgov.be/mopdf/2014/04/02_1.pdf#Page90); Flanders (Décret de 13 juillet 2012, http://www.ejustice.just.fgov.be/mopdf/2012/09/11_2.pdf#Page40); German Speaking Community (Décret de 25 mai 2009, http://www.ejustice.just.fgov.be/mopdf/2009/08/03_1.pdf#Page67).

¹³ See p. 14-15 of the debate in Parliament about adoption of the law assenting to OPCAT (<http://www.dekamer.be/doc/PCRI/PDF/54/ip242.pdf>), as well as the Minister's [response](#) to a Parliamentary question on 27 May 2019 (Question N° 6-2348, introduced on 4 February 2019, <http://www.senate.be/www/?Mlval=/Vragen/SVPrintNLF&LEG=6&NR=2348&LANG=nl>). In the same sense: Parliamentary debate in the Joint meeting of the Commissions of Interior and of Justice about the death of Jozef Chovanec on 26 August 2020, p26, <https://www.dekamer.be/doc/CCRI/pdf/55/ic252.pdf>

¹⁴ Places of detention that are outside of the CPMC's mandate include facilities for people with mental-health issues, police holding cells, juvenile detention centres, migration detention facilities and means of transport for the transfer of detainees.

¹⁵ For more on the CPMC, see also: T. Daems, 'Rijp voor puberteit', *FATIK*, januari – maart 2017, 153, 13-19, http://www.mensenrechten.be/bestanden/uploads/tijdschriften/FATIK_2017nr153.pdf

- ¹⁶ Commission Interdépartementale pour le Développement Durable. *Plan d'Action National Entreprises et Droits de l'Homme*. July 2017, https://www.sdgs.be/sites/default/files/publication/attachments/plan_daction_national_entrepises_et_droits_de_lhomme_2017.com_presse.pdf
- ¹⁷ Amnesty International has documented cases in which Belgian companies have been implicated in human rights abuses in other countries. In one such case, Belgium took insufficient action to hold the relevant company to account. Amnesty International, *Bulldozed: How a mining company buried the truth about forced evictions in the Democratic Republic of the Congo* (Index: AFR 62/003/2014); Amnesty International, *Chains of Abuse: The global diamond supply chain and the case of the Central African Republic* (Index: AFR 19/2494/2015). See also: §12 & 13 of Committee on Economic, Social and Cultural Rights, Concluding observations on the fifth periodic report of Belgium. E/C.12/BEL/CO/5
- ¹⁸ Amnesty International, *Belgium: Submission to the UN Universal Periodic Review*, June 2015 (Index: [EUR 14/2497/2015](https://www.amnesty.org/en/documents/eur14/2497/2015/)), p7
- ¹⁹ Research Institute Dedicated conducted the [survey](#) in October 2019. There were 2300 participants, aged between 15 and 85.
- ²⁰ Conseil supérieur de la Justice. *Opvolgings- en uitdiepingsrapport – Naar een betere aanpak van seksueel geweld*, June 2020, .
- ²¹ The percentage of dismissals by the prosecution was 54.08% in 2017 and 31.78% in 2019 for sexual delinquency crimes. Conseil supérieur de la Justice. *Opvolgings- en uitdiepingsrapport – Naar een betere aanpak van seksueel geweld*, June 2020.
- ²² [Plan d'action national de lutte contre toutes les formes de violence basée sur le genre 2015-2019](#). A new National Action Plan on gender-based violence was due to be adopted in 2020. At the time of writing in September 2020, the National Action Plan had not been adopted.
- ²³ These centres provide survivors of sexual violence with different forms of assistance in one place. Survivors can get medical and psychological care, forensic investigation and evidence gathering, and they can file a complaint with a specially trained police officer present. A first [evaluation](#) by the gender equality body (Institute for the Equality between women and men) indicates a highly positive impact. Amnesty International, [België – Grote stap vooruit voor slachtoffers van seksueel geweld](#).
- ²⁴ Nathalie Muylle, [De 3 à 10 Centres de Prise en charge des Violences Sexuelles](#), 19 June 2020,
- ²⁵ Chapter 5 of the Law of [31 July 2020](#).
- ²⁶ Three major platforms '1712', AWEL and 'Écoute violences conjugales' all reported a significant increase in the number of calls.
- ²⁷ 1712, "Bang om in uw kot te blijven?", May 2020, <https://1712.be/campagnes/id/686/persbericht-bang-om-in-uw-kot-te-blijven-nieuwe-campagne-over-huiselijk-geweld>; Pub, *Vrouwenraad & Prophets slope muren tegen Familiaal Geweld*, 10 April 2020, <https://pub.be/nl/vrouwenraad-en-prophets-slopen-muren-tegen-familiaal-geweld/>. Action Sociale Wallonie, *Lancement de la campagne: « Rien ne justifie la violence conjugale »*, 13 April 2020, <http://actionsociale.wallonie.be/actualites/campagne-violences-conjugales>
- ²⁸ Prof. Ines Keygnaert, *Eén op vier is slachtoffer van agressie tijdens eerste fase lockdown in België*, 13 May 2020, <https://www.ugent.be/nl/actueel/een-op-vier-is-slachtoffer-van-agressie-tijdens-eerste-fase-lockdown-in-belgie.htm>
- ²⁹ Amnesty International Belgium, *België: meer middelen tegen huiselijk geweld tijdens COVID-19-pandemie*, 8 April 2020, <https://www.amnesty-international.be/nieuws/belgie-meer-middelen-tegen-huiselijk-geweld-tijdens-covid-19-pandemie>
- ³⁰ UN Special Rapporteur for the promotion and protection of human rights and fundamental freedoms while countering terrorism, *Visit to Belgium - Report of the Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism*. A/HRC/40/52/Add.5, paragraphs 76-77, <https://www.ohchr.org/EN/Issues/Terrorism/Pages/Visits.aspx>
- ³¹ Het Nieuwsblad, *Als er morgen opnieuw een aanslag gebeurt, belanden slachtoffers nog altijd in administratieve hel*, 23 March 2019, https://www.nieuwsblad.be/cnt/dmf20190322_04275122; Amnesty International, *Belgium: Submission to the United Nations Human Rights Committee*, 13 September 2019, page 17, <https://www.amnesty.org/en/documents/eur14/1041/2019/en/>
- ³² UN Special Rapporteur for the promotion and protection of human rights and fundamental freedoms while countering terrorism, *Visit to Belgium - Report of the Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism*. A/HRC/40/52/Add.5, paragraphs 46-51, <https://www.ohchr.org/EN/Issues/Terrorism/Pages/Visits.aspx>
- ³³ Amnesty International, *On ne sait jamais, avec des gens comme vous: Politiques policières de prévention du profilage ethnique en Belgique*, May 2018, https://www.amnesty.be/IMG/pdf/rapport_profilage_ethnique.pdf
- ³⁴ Police officers confirmed that ethnic profiling is a reality in Amnesty International's report *On ne sait jamais, avec des gens comme vous: Politiques policières de prévention du profilage ethnique en Belgique*, May 2018, https://www.amnesty.be/IMG/pdf/rapport_profilage_ethnique.pdf. According to a study of the European Fundamental Rights Agency, Belgians of Turkish and North-African descent are being stopped by the police more than majority Belgians. European Fundamental Rights Agency (FRA), *Data in Focus Report. Police stops and minorities*, EU-MIDIS, 2010, https://fra.europa.eu/sites/default/files/fra_uploads/1132-EU-MIDIS-police.pdf. Also illustrated by Ligue Des Droits de l'Homme (LDH), *Contrôler et punir: étude sur le profilage ethnique*, March 2017, <http://www.liguedh.be/contrôler-punir-etude-profilage-ethnique/>; and by Hogeschool PXL, *Belevingsonderzoek. Hoe beleven jongeren hun vrijetijdsbesteding in de publieke ruimte?* 2014, <https://demos.be/kenniscentrum/document/belevingsonderzoek-hoe-beleven-jongeren-hun-vrijetijdsbesteding-in-de>

- ³⁵ A praiseworthy evolution is that some local police forces are experimenting with registration of ID-checks. Knack, *Politiezone Mechelen-Willebroek registreert voortaan elke ID-controle tegen etnisch profileren*, 10 July 2017, <https://www.knack.be/nieuws/belgie/politiezone-mechelen-willebroek-registreert-voortaan-elke-id-controle-tegen-etnisch-profileren/article-normal-876467.html>. VRT, *Politiezone Mechelen-Willebroek registreert al drie jaar controles in strijd tegen etnisch profileren: "Cultuuromslag"*, 10 June 2020, <https://www.vrt.be/vrtnws/nl/2020/06/10/project-mechelen-willebroek/>.
- ³⁶ Press reconstruction of the timeline of events in February 2018, including video footage, <https://www.vrt.be/vrtnws/nl/2020/08/25/tijdslijn-wat-gebeurde-er-na-het-hardhandig-politieoptreden-op/>.
- ³⁷ Parliamentary debate in the Joint meeting of the Commissions of Interior and of Justice about the death of Jozef Chovanech on 26 August 2020, <https://www.dekamer.be/doc/CCRI/pdf/55/ic252.pdf>
- ³⁸ Committee Against Torture, *Concluding observations on the third periodic report of Belgium*, 3 January 2014, UN Doc. CAT/C/BEL/CO/3, para 13, https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=CAT/C/BEL/CO/3&Lang=En. Amnesty International, *Belgium: Submission to the United Nations Committee Against Torture: 51st Session of the United Nations Committee Against Torture (28 October – 22 November 2013)*, 11 October 2013, p21, <https://www.amnesty.org/en/documents/EUR14/002/2013/en/>.
- ³⁹ Amnesty International, *Belgium: Submission to the United Nations Human Rights Committee*, 13 September 2019, p22, <https://www.amnesty.org/en/documents/eur14/1041/2019/en/>
- ⁴⁰ Amnesty International, *Policing the pandemic: Human rights violations in the enforcement of COVID-19 measures in Europe*, 24 June 2020, <https://www.amnesty.org/en/documents/eur01/2511/2020/en/>. Ligue des droits humains & Police Watch, *Abus Policiers et confinement*, June 2020, <https://www.liguedh.be/abus-policiers-et-confinement/>.
- ⁴¹ Amnesty International, *Belgium: Returns to Sudan violated principle of non-refoulement*, 30 January 2018 <https://www.amnesty.be/IMG/pdf/eur1478112018english.pdf>.
- ⁴² Commissariaat-Generaal voor de vluchtelingen en de staatlozen, *Het respecteren van het non-refoulementprincipe bij de organisatie van de terugkeer van personen naar Soedan*, 8 February 2018, http://www.cgvs.be/sites/default/files/onderzoekrapport_terugkeer_naar_soedan_2018_verslag.pdf
- ⁴³ Commission chargée de l'évaluation de la politique du retour volontaire et de l'éloignement forcé d'étrangers, *Rapport intérimaire présenté au Ministre de l'Asile et de Migration*. February 2019, https://dofi.ibz.be/sites/dvzoe/FR/Documents/DEF_RAPPORTINTERIMAIRE_FR.pdf.
- ⁴⁴ Commission chargée de l'évaluation de la politique du retour volontaire et de l'éloignement forcé d'étrangers, *Rapport Final présenté au Ministre de l'Asile et de Migration*, September 2020, https://dofi.ibz.be/sites/dvzoe/FR/Documents/CommissionBossuyt_RapportFinal_FR.pdf
- ⁴⁵ 11.11.11, Amnesty International Belgium, Avocats.be, Beweging.net, Caritas International Belgium, CNCD, JRS, Liga voor Mensenrechten, Ligue des droits humains, Minerva, Nansen, Orbit, Plate-Forme Mineurs en Exil, Point d'Appui, UNICEF and Vluchtelingenwerk Vlaanderen, *Au-delà du retour – A la recherche d'une politique digne et durable pour les personnes migrantes en séjour précaire ou irrégulier*, June 2020, https://www.amnesty.be/IMG/pdf/20200611_fr_au-dela_du_retour.pdf
- ⁴⁶ With the entry into force, on Aug. 11, 2018, of the *Royal Decree of 22 July 2018*, http://www.ejustice.just.fgov.be/cgi_loi/change_lg.pl?language=fr&la=F&cn=2018072202&table_name=loi
- ⁴⁷ Conseil d'état - *Arrêt N° 244.190*, 4 April 2019, <http://www.raadvanstate.be/arr.php?nr=244190>
- ⁴⁸ UN Committee on the Protection of the Rights of All Migrant Workers and Members of Their Families, *Concluding observations on the initial report of Nicaragua*, 11 October 2016, UN Doc. CMW/C/NIC/CO/1, paras 39-40 [CMW Nicaragua 2016]; UN Working Group on Arbitrary Detention (WGAD), *Revised Deliberation No. 5 on deprivation of liberty of migrants*, 7 February 2018, para 11; Inter-American Court of Human Rights (IACtHR), *Advisory Opinion OC-21-14: Rights and Guarantees of Children in the Context of Migration and/or in Need of International protection* (19 August 2014) at para 154; Report of the Special Rapporteur on the human rights of migrants on a 2035 agenda for facilitating human mobility, UN Doc A/HRC/35/25, 28 April 2017, para 61; and UNHCR, *UNHCR's position regarding the detention of refugee and migrant children in the migration context*, January 2017, <https://www.unhcr.org/protection/detention/58a458eb4/unhcrs-position-regarding-detention-refugee-migrant-children-migration.html>
- ⁴⁹ UN Working Group on Arbitrary Detention, *Revised Deliberation No. 5 on deprivation of liberty of migrants*, UN Doc. A/HRC/39/45, 7 February 2018, <https://undocs.org/A/HRC/39/45>
- ⁵⁰ Articles. 7, 27 §3, 51/5 and 74/6 of the law of 15 December 1980.
- ⁵¹ Since 2003, arms transfer control has been a regional competence in Belgium. Four different legal regimes exist, one for each region (Flanders, Wallonia and Brussels) and one for federal transfers (for a remainder category including transfers like army purchases). Wallonia is by far the largest exporter of the four.

⁵² Amnesty International, *When Arms Go Astray – the deadly new threat of arms diversions to militias in Yemen*, February 2019,

<https://arms-uae.amnesty.org/en/>

⁵³ Comité européen pour la prévention de la torture et des peines ou traitements inhumains ou dégradants (CPT), *Rapport au Gouvernement de la 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 (CPT)*, 8 March 2018, CPT/Inf (2018)8, §66, 68, 70, <https://rm.coe.int/16807913b1>. OIP Belgique. *l'Etat belge responsable de la surpopulation carcérale*, 18 January 2019, <http://oipbelgique.be/fr/?p=973>. ECtHR: *Vasilescu v. Belgium*, (64682/12) 2014, <http://hudoc.echr.coe.int/eng-press?i=003-4942877-6053241>.

⁵⁴ Comité européen pour la prévention de la torture et des peines ou traitements inhumains ou dégradants (CPT). *Public Statement concerning Belgium*, Strasbourg, 13 July 2017 (CPT/Inf (2017) 18), <https://rm.coe.int/pdf/1680731786>; *Report of CPT visit during May 2016 strike*, <http://www.euractiv.com/section/justice-home-affairs/news/council-of-europe-worried-about-belgian-prisons-crisis/>; and *strike reports by the Committees of oversight of Antwerp*, 4 July 2018, https://www.ctrg-ccsp.be/nl/system/files/2018-07-04_antwerpen.pdf; *Louvain* (6 July 2018), https://www.ctrg-ccsp.be/nl/system/files/2018-07-6_leuven.pdf

⁵⁵ The implementation of the law requires several executive decrees. *La Loi de 23 mars 2019 concernant l'organisation des services pénitentiaires et le statut du personnel pénitentiaire (1)*.

⁵⁶ Conseil Central de Surveillance Pénitentiaire, *Prisons: le Gouvernement appelé à renforcer d'urgence les mesures sanitaires et humanitaires*, 30 March 2020 ; RTBF, *Situation au centre fermé de Merksplas : Myria demande que des mesures soient prises*, 16 April 2020 ; Wouter Wanzele & Kaat Severs, *Coronavirus legt problemen in gevangenissen bloot (Op-ed)*, 8 May 2020. Ana Lazaro - EuroNews, *Covid-19: Belgium's overcrowded prisons a 'powder keg' for infections*, 30 April 2020.

⁵⁷ Figures include deaths that are presumed to be COVID-19-related but where no test was taken to confirm.

⁵⁸ Between 18 March and 2 June 2020, 50% of all deaths due to COVID-19 happened in hospitals, whereas 49% happened in care-homes for older people. Sciensano (ea). *COVID-19 Mortaliteit – update van de gegevens*. 26 August 2020, <https://covid-19.sciensano.be/sites/default/files/Covid19/MORTALITEIT%20COVID-19%20%E2%80%93%20UPDATE%20VAN%20DE%20GEGEVENS%20-%2026%20AUGUSTUS%202020.pdf>

⁵⁹ Amnesty International Belgium, *Eén maand lockdown – voorlopige balans voor de mensenrechten in België*, 18 April 2020, https://www.amnesty-international.be/sites/default/files/bijlagen/longread_1_maand_lockdown_0.pdf

⁶⁰ « Ces lieux, avant tout des résidences de vie, se sont vus contraints de fermer leurs portes et de se transformer en hôpitaux de fortune, mais sans la préparation, les connaissances et les moyens -humains et matériel- requis.» Médecins sans frontières, *Les laissés pour compte de la réponse au Covid-19 – Partage d'expérience sur l'intervention de Médecins Sans Frontières dans les maisons de repos de Belgique*, July 2020, page 29, https://www.msf-azg.be/sites/default/files/imce/Rapport_MaisonsDeRepos/MSF_lessons_learned_report_FR_FINAL.pdf

⁶¹ Médecins sans frontières, *Les laissés pour compte de la réponse au Covid-19 – Partage d'expérience sur l'intervention de Médecins Sans Frontières dans les maisons de repos de Belgique*, July 2020, page 29, https://www.msf-azg.be/sites/default/files/imce/Rapport_MaisonsDeRepos/MSF_lessons_learned_report_FR_FINAL.pdf

⁶² Vlaamse Ombudsdienst, *Stemmen uit de stilte*, 3 July 2020, http://www.vlaamseombudsdienst.be/ombs/nl/nieuws/pdf/20200702_stemmen_uit_de_stilte.pdf