

Council of Europe contribution for the 38th UPR session (Jan-Feb 2021) regarding Belgium

Contents

<i>Prevention of torture (CPT).....</i>	<i>2</i>
<i>Council of Europe Commissioner for Human Rights.....</i>	<i>2</i>
<i>Fight against racism and intolerance (ECRI).....</i>	<i>4</i>
<i>Steering Committee on Anti-Discrimination Diversity and Inclusion (CDADI).....</i>	<i>4</i>
<i>Protection of minorities.....</i>	<i>5</i>
<i>Framework Convention for the Protection of National Minorities.....</i>	<i>5</i>
<i>European Charter for Regional or Minority Languages.....</i>	<i>5</i>
<i>Ad hoc Committee of Experts on Roma and Traveller Issues (CAHROM).....</i>	<i>5</i>
<i>Action against trafficking in human beings (GRETA).....</i>	<i>5</i>
<i>Preventing and combating violence against women and domestic violence (GREVIO).....</i>	<i>6</i>
<i>Protection of children against sexual abuse (Lanzarote Convention).....</i>	<i>7</i>
<i>Fight against corruption (GRECO).....</i>	<i>11</i>
<i>Execution of judgments and decisions of the European Court of Human Rights.....</i>	<i>11</i>
<i>Statistical data.....</i>	<i>11</i>
<i>Main cases / groups of cases under the Committee of Ministers' supervision.....</i>	<i>12</i>
<i>Social and Economic Rights (ECSR).....</i>	<i>12</i>
<i>Venice Commission.....</i>	<i>13</i>

Prevention of torture (CPT)

The 'European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment' organises country visits in order to visit places of detention to assess how persons deprived of their liberty are treated. After each visit, the CPT sends a detailed report to the State concerned. This report includes the CPT's findings, and its recommendations, comments and requests for information.

2017 Report in French:



Government responses in French:



2016 report focusing on the impact of custodial staff movement/strikes –



Government response:



Council of Europe Commissioner for Human Rights

The Commissioner for Human Rights is an independent and impartial non-judicial institution established by Council of Europe to promote awareness of and respect for human rights in the 47 Council of Europe member States.

In June 2018, the Commissioner published a [letter](#) addressed to the Secretary of State for Migration and Asylum, in which she raised concerns about the possibility that migrant families with children might be detained in newly constructed closed detention units near Brussels airport. Underscoring that full respect for children's rights means that children should never be detained on grounds of their or their parents' immigration status, she invited the Belgian authorities to redouble their efforts to develop alternatives to detention for families with children.



**CommHR_2018_Belgi
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In December 2016, the Commissioner published a [letter](#) addressed to the Secretary of State for Migration and Asylum of Belgium urging the Belgian authorities not to resume detention of migrant children and to expand alternatives to immigration detention for families with children.



**CommHR_2016_Belgi
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The Commissioner carried out a visit to Belgium from 14 to 18 September 2015, which focused on the human rights of migrants and asylum seekers; persons with disabilities; and Roma and Travellers. He published a [press-release](#) at the end of the visit and a [report](#) in January 2016.



CommDH(2016)1.pdf

As regards migration and asylum, the Commissioner welcomed the country's bolstered reception capacity and increased resettlement quota and urged the authorities to speed up the registration of newly arrived asylum seekers so that they were not left without accommodation while registration was pending. He deplored the widespread practice of detaining asylum seekers at the border and the lack of systematic judicial review of detention, however welcomed the fact that families of migrants with children have been accommodated in open family units and called on the authorities to refrain from resuming the practice of detaining such families in closed detention centres. Furthermore, he encouraged the authorities to develop and implement comprehensive integration policies.

As regards Roma migrants, the marginalisation and acute destitution of a limited number of families was of serious concern. Promising practices aimed at providing targeted social action and using mediators were implemented in some cities, notably Ghent, and the Commissioner recommended that, based on these examples, sustainable solutions were identified to improve the situation of such families.

The Commissioner also strongly recommended increasing the number of encampment sites available to Belgian Roma and Travellers and addressing the reported over-representation of foreign Roma children and children of Roma and Traveller background in specialised schools. He also underlined the importance of tackling more forcefully all instances of hate speech and discriminatory practices against these communities.

As regards the human rights of persons with disabilities, the Commissioner expressed concern over their widespread institutionalisation combined with a lack of community-based services, which significantly limits these persons' possibilities to lead an autonomous life. This problem was compounded by the high number of children with disabilities who are educated in specialised schools, separately from other children, with little prospect of being reintegrated into mainstream education. In the light of these findings, the Commissioner called for a nation-wide commitment towards the inclusion of children with disabilities in mainstream education.

Additionally, the detention of persons with psychosocial and intellectual disabilities in overcrowded psychiatric wards in Belgian prisons, without providing them with adequate treatment, remained an outstanding problem, in spite of several judgments of the European Court of Human Rights which found Belgium in violation of the

European Convention on Human Rights in this area. A law of 2014 introduced welcome changes, in particular easing transfers from the penitentiary system to health care institutions, so the Commissioner urged the authorities to implement the planned measures without further delay.

Fight against racism and intolerance (ECRI)

The European Commission against Racism and Intolerance (ECRI) is a human rights body of the Council of Europe, composed of independent experts, which monitors problems of racism, xenophobia, antisemitism, intolerance and discrimination on grounds such as “race”, national/ethnic origin, colour, citizenship, religion and language. It prepares reports and issues recommendations to member States, in which its findings, along with recommendations are published. These reports are drawn up after a contact visit to the country in question and a confidential dialogue with the national authorities. The country monitoring takes place in five-year cycles. As part of the fourth round of ECRI’s monitoring work, a new process of interim follow-up has been introduced with respect to a small number of specific recommendations made in each of ECRI’s country reports.

Sixth report on Belgium (adopted on 12 December 2019 / published on 18 March 2020)



**ECRI_2019_Belgium.p
df**

Steering Committee on Anti-Discrimination Diversity and Inclusion (CDADI)

Under the authority of the Committee of Ministers and bearing in mind the Council of Europe’s legal standards, the jurisprudence of the European Court of Human Rights and the findings and recommendations of the relevant monitoring mechanisms, the CDADI steers the Council of Europe’s intergovernmental work to promote equality for all and build more inclusive societies, offering effective protection from discrimination and hate and where diversity is respected. The work of the CDADI shall take into account the work of the European Commission against Racism and Intolerance (ECRI), without prejudice to the latter’s mandate.

The CDADI advises the Committee of Ministers on all questions within its mandate, including preventing and combating hate speech and discrimination on the grounds covered by ECRI, with a particular focus on fighting anti-Gypsyism and improving the active participation and inclusion of Roma and Travellers in society, safeguarding the rights of persons belonging to national minorities and the use of regional or minority languages, and promoting intercultural integration.

The CDADI promotes and facilitates thematic exchanges and peer reviews of experience and good practice among Council of Europe member States to develop common policy responses, analyse implementation and fulfil any other task assigned to it by the Committee of Ministers.

COVID-19: An analysis of the anti-discrimination, diversity and inclusion dimensions in Council of Europe member states



**CDADI(2020)9
COVID-19 An analysis**

Protection of minorities

Framework Convention for the Protection of National Minorities

The monitoring procedure for this convention requires each state party to submit a report within one year following the entry into force of the Framework Convention and additional reports every five subsequent years. State reports are examined by the [Advisory Committee](#), a body composed of 18 independent experts responsible for adopting country-specific opinions. These opinions, on which States Parties have an opportunity to comment, are meant to advise the Committee of Ministers in the preparation of its resolutions, containing conclusions and recommendations to the State concerned.

n/a

European Charter for Regional or Minority Languages

The [Charter's monitoring procedure](#) is based on state reports, as each State Party is required to present its first report within the year following the entry into force of the Charter with respect to the Party concerned. The subsequent reports are presented at three-yearly intervals (since 1 July 2019). A committee of independent experts examines the state's periodical report and addresses an evaluation report to the Committee of Ministers, including proposals for recommendations.

n/a

Ad hoc Committee of Experts on Roma and Traveller Issues (CAHROM)

Following the High-Level meeting, intergovernmental work on Roma issues has been upgraded: on 16 February 2011 the Ministers Deputies adopted terms of reference for a new Committee of Experts (CAHROM) to be answerable directly to the Committee of Ministers. The [terms of reference](#) - which have been renewed by the Ministers Deputies for the years 2018-2019 - place emphasis on the analysis and evaluation of the implementation of national policies and thematic exchanges of experience and good practices. European Union institutions, international organisations, the European Roma and Travellers Forum and other relevant (Roma and Traveller) organisations are associated as observers to the CAHROM.

Action against trafficking in human beings (GRETA)

The Council of Europe Convention on Action against Trafficking in Human Beings was adopted by the Committee of Ministers of the Council of Europe on 3 May 2005, following a series of other initiatives by the Council of Europe in the field of combating trafficking in human beings. The Convention entered into force on 1 February 2008, following its 10th ratification. While building on existing international instruments, the Convention goes beyond the minimum standards agreed upon in them and strengthens the protection afforded to victims.

The Convention has a comprehensive scope of application, encompassing all forms of trafficking (whether national or transnational, linked or not linked to organised crime) and taking in all persons who are victims of trafficking (women, men or children). The forms of exploitation covered by the Convention are, at a minimum, sexual exploitation, forced labour or services, slavery or practices similar to slavery, servitude and the removal of organs.

The main added value of the Convention is its human rights perspective and focus on victim protection. Its Preamble defines trafficking in human beings as a violation of human rights and an offence to the dignity and integrity of the human being. The Convention provides for a series of rights for victims of trafficking, in particular the right to be identified as a victim, to be protected and assisted, to be given a recovery and reflection period of at least 30 days, to be granted a renewable residence permit, and to receive compensation for the damages suffered.

Another important added value of the Convention is the monitoring system set up to supervise the implementation of the obligations contained in it, which consists of two pillars: the Group of Experts on Action against Trafficking in Human Beings (GRETA) and the Committee of the Parties.

The Convention is not restricted to Council of Europe member states; non-members states and the European Union also have the possibility of becoming Party to the Convention.

GRETA evaluation report (2nd evaluation round)



[Press release](#)

Preventing and combating violence against women and domestic violence (GREVIO)

The Council of Europe Convention on preventing and combating violence against women and Domestic violence ([Istanbul Convention](#), [CETS No. 210](#)) is the most far-reaching international treaty to tackle this serious violation of human rights. It aims at zero tolerance for such violence and is a major step forward in making Europe and beyond safer. Preventing violence, protecting victims and prosecuting the perpetrators are the cornerstones of the convention. It also seeks to change the hearts and minds of individuals by calling on all members of society, in particular men and boys, to change their attitudes. In essence, it is a renewed call for greater equality between women and men, because violence against women is deeply rooted in the inequality between women and men in society and is perpetuated by a culture of intolerance and denial.

The Council of Europe Istanbul Convention provides for two types of monitoring procedures:

1. a country-by-country evaluation procedure;
2. and a special inquiry procedure in exceptional cases where action is required to prevent a serious, massive or persistent pattern of any acts of violence covered by the Convention.

[GREVIO](#), the Group of Experts on Action against violence against women and domestic violence, is the independent body responsible for monitoring the implementation of CETS No. 210. GREVIO launched its first evaluation procedure in spring 2016, after adopting a questionnaire on legislative and other measures giving effect to the Istanbul Convention.

The Convention is not restricted to Council of Europe member states; non-members states and the European Union also have the possibility of becoming Party to the Convention.

Protection of children against sexual abuse (Lanzarote Convention)

The Council of Europe Convention on Protection of Children against Sexual Exploitation and Sexual Abuse, also known as “the Lanzarote Convention”, requires criminalisation of all kinds of sexual offences against children. It sets out that states in Europe and beyond shall adopt specific legislation and take measures to prevent sexual violence, to protect child victims and to prosecute perpetrators.

The “Lanzarote Committee” (i.e. the Committee of the Parties to the Convention on the Protection of Children against Sexual Exploitation and Sexual Abuse) is the body established to monitor whether Parties effectively implement the Lanzarote Convention. To do so, the Committee evaluates the information which has been provided by the national authorities and other sources in their replies to questionnaires developed by the Committee itself. This monitoring procedure is divided by rounds, each round concerning a theme. At the end of each round, the Lanzarote Committee adopts “implementation reports” which contain its assessment of the situation with respect to the monitored Parties.

Belgium ratified the Lanzarote Convention on 8 March 2013 and it entered into force in its respect on 1 July 2013.

1st monitoring round on the “Protection of children against sexual abuse in the circle of trust”

This was carried out between 2013 and 2018 and focused on the protection of children against sexual abuse in the circle of trust. It led to the adoption of two implementation reports, one related to the [legal framework](#) and the other to the [strategies](#) to tackle the phenomenon. The information submitted by Belgium in the context of the 1st monitoring round is available [here](#).

The recommendations requiring Belgium to take steps to implement the Lanzarote Convention effectively in the context of this monitoring round were as follows:

On the criminalisation of sexual abuse of children in the circle of trust, the Lanzarote Committee:

- **Urges** Belgium to review its legislation to ensure effective protection of children from situations where abuse is made of a recognised position of influence (R F.1).
- **Urges** Belgium to establish in its legislation the offence of sexual abuse in the circle of trust instead of considering the fact that sexual abuse is committed by someone that has a recognised position of trust, authority or influence just as an aggravating circumstance of the offence of sexual abuse (R F.2).
- **Urges** the Belgian authorities to ensure the protection of Article 18§1.b, 2nd indent to all children under the age of 18 years regardless of their marital status and invites all other Parties with legislation with exceptions concerning emancipation through marriage to lift such exceptions as well (R F.7).

On the collection of data on child sexual abuse in the circle of trust, the Lanzarote Committee:

- **Urges** Belgium to take the necessary legislative or other measures to set up or designate mechanisms for data collection or focal points at national or local level and in collaboration with civil society, for the purpose of observing and evaluating in terms of quantitative data collection the phenomenon of the sexual exploitation and sexual abuse of children in general and child sexual abuse committed in the circle of trust, in particular (R F.13).

- **Considers** that Belgium must set up a national or local system for recording case-based data for child sexual abuse in the circle of trust cases in the various sectors liable to come into contact with children victims in such instances; such administrative data collection systems should be implemented allowing to compare and cross-check the data thus collected at national level and avoid duplication (R F.15).

As to the best interest of the child and child friendly criminal proceedings, the Lanzarote Committee:

- **Considers** that when sexual abuse is inflicted by someone in the child's circle of trust, the child victim is in a particularly delicate situation of having to report a crime made by someone who he or she trusted, respected and possibly loved. This situation which can create a serious disturbance on the child's family life and overall wellbeing, needs to be addressed specifically (R F.22).
- **Considers** that information and advice should be provided to child victims in a manner adapted to their age and maturity, in a language they understand, and which is gender and cultural sensitive (R F.23).
- **Considers** that, in the context of sexual abuse in the circle of trust, the removal of the victim from his or her family environment should be foreseen as a last resort procedure, which should be clearly defined, setting out the conditions for and duration of the removal (R F.27).
- **Considers** that interventions and measures which are taken in the context of domestic violence operate on a different modus operandi to those established in child sexual abuse cases. An explicit mention of sexual abuse should therefore be included in all protection measures with regard to domestic violence (R F.28).
- **Urges** Belgium to take the necessary legislative or other measures to ensure that the persons who are close to the victim may benefit, where appropriate, from therapeutic assistance, notably emergency psychological care (R30).

On child participation, the Lanzarote Committee:

- **Considers** that Belgium should further encourage the participation of children, according to their evolving capacity, in the development and the implementation of state policies, programmes or other initiatives concerning the fight against sexual abuse of children in the circle of trust specifically (R S.1).

On the participation of civil society, the Lanzarote Committee:

- **Considers** that, if it has not yet done so, Belgium should encourage the participation of the civil society in the elaboration and implementation of policies to prevent sexual abuse of children in the circle of trust also by providing financial support to them (R S.2).
- **Considers** that, if they have not yet done so, Belgium should cooperate with civil society organizations engaged in assistance to victims and provide, by means of legislative or other measures, in accordance with the conditions provided for by internal law, the possibility to assist and/or support the victims with their consent during criminal proceedings concerning the offences established in accordance with this Convention (R S.3).

On raising awareness on sexual abuse of children in the circle of trust, the Lanzarote Committee:

- **Considers** that the possibility of sexual abuse of children occurring within the family should be explicitly addressed in awareness raising efforts, with the intent to prevent it (R S.7).

On awareness raising strategies on sexual abuse of children in the circle of trust, the Lanzarote Committee:

- **Considers** that awareness raising actions targeting children should be age appropriate and make use of interactive methods as well as of information and communication technologies (R S.8).
- **Considers** that awareness raising actions focused on the risks and realities of sexually abused children in the circle of trust should be continuous and systematic. Parties should envisage including these activities in their national action plans for children's rights (R S.9)

On education for children, the Lanzarote Committee:

- **Considers** that Belgium should specifically address the issue of sexual abuse in the circle of trust in the information provided to children during primary and secondary education (R S.10).
- **Considers** Belgium should put more emphasis on adapting the information given to children to their evolving capacity, thereby making it age-appropriate (R S.11).
- **Considers** that Belgium should further involve parents (and adults exercising parental responsibilities) in the provision of information given to children on sexual abuse, including in the circle of trust (R S.13).

On specialised training, the Lanzarote Committee:

- **Considers** that, if it is not doing so yet, Belgium should provide specific regular training about child sexual abuse in the circle of trust for professionals working within the police, prosecution, child protection and health services (R S.14)
- **Considers** that, if it is not doing so yet, Belgium should allocate adequate financial resources to the training of persons, units and services in charge of investigations as defined by Article 34§1 of the Lanzarote Convention (R S.15).

On reporting by any person, the Lanzarote Committee:

- **Considers** that Belgium should introduce the necessary legislative or other measures, such as awareness raising campaigns, to encourage any person who knows about or suspects in good faith that a child is a victim of sexual exploitation or sexual abuse to report to the competent services (R S.18).

On assisting offenders to prevent repeated offences of a sexual nature against children, the Lanzarote Committee:

- **Urges** Belgium to put in place a tool or procedure to make an assessment of the dangerousness and possible risks of repetition of sexual offences against children (R S.26).
- **Urges** Belgium to put in place a tool or procedure to evaluate the effectiveness of the intervention programmes or measures (R S.27).

Urgent monitoring round on "Protecting children affected by the refugee crisis from sexual exploitation and sexual abuse"

On victim identification, the Lanzarote Committee:

- **Considers** that Belgium should put in place effective mechanisms for data collection with a specific focus on children affected by the refugee crisis who are victims or presumed victims of sexual exploitation and sexual abuse and review the possible removal of obstacles to the collection of such data, in particular, where they exist, legal restrictions to do so, with due respect for the requirements of personal data protection (R7).

On the distinction made between victims prior to the entry on territory and after entry, the Lanzarote Committee:

- **Considers** that, while providing adequate protection to child victims irrespective of where the exploitation/abuse occurred, Belgium should do its utmost to be able to distinguish between sexual exploitation and sexual abuse occurring prior to the entry of the child victim on its territory and after the entry (R11).
- **Considers** that Belgium should fulfil obligations to prosecute the offenders and to provide international co-operation between the Parties in instances where the offence occurred prior to arrival on the territory for the purpose of investigation and prosecution (R12).

On the Parties' approach to protecting children affected by the refugee crisis from sexual exploitation and sexual abuse, the Lanzarote Committee:

- **Considers** that Belgium should encourage the co-ordination and collaboration of the different actors who intervene for and with children affected by the refugee crisis to ensure that preventive measures in regards to protection from sexual exploitation and sexual abuse are in place and protective measures are taken as speedily as possible (R13).

On preventing children affected by the refugee crisis from being sexual exploited and sexually abused, the Lanzarote Committee:

- **Considers** that information and advice concerning prevention of and protection from sexual exploitation and sexual abuse should be provided to children affected by the refugee crisis in a manner adapted to their age and maturity, in a language they understand and which is sensitive to gender and culture (R15).
- **Considers** that Belgium and other Parties to the Convention should exchange information on awareness raising activities which specifically focus on the risks faced by children affected by the refugee crisis with respect to sexual exploitation and sexual abuse (R17).

On the protection of children affected by the refugee crisis from sexual exploitation and sexual abuse, the Lanzarote Committee:

- **Considers** that Belgium should ensure that its specific recommendations on the child-friendly handling of proceedings involving children victims of sexual abuse be implemented also in the context of proceedings involving children affected by the refugee crisis (R31).
- **Considers** that, if it has not yet done so, Belgium should encourage and support the setting up of specific information services such as telephone or Internet helplines to child victims of sexual exploitation and sexual abuse affected by the refugee crisis as well as persons wishing to help

them to provide advice in a language which is understandable to them (R32).

On co-operation in protecting children affected by the refugee crisis from sexual exploitation and sexual abuse, the Lanzarote Committee:

- **Considers** that Belgium and other Parties to the Convention should agree on common strategies/procedures to effectively deal with the phenomenon of cross-border missing children (R35).

On data collection and coordination in protecting children affected by the refugee crisis from sexual exploitation and sexual abuse, the Lanzarote Committee:

- **Considers** that Belgium and other Parties to the Convention should reinforce or put in place a coordinated approach between the different agencies in charge in order to facilitate the prevention and protection of children affected by the refugee crisis from sexual exploitation and sexual abuse (R37).

Fight against corruption (GRECO)

The 'Group of States against Corruption' (GRECO) monitors all its 50 members through a peer review evaluation procedure within thematic evaluation rounds. The evaluation reports contain recommendations aimed at furthering the necessary legislative, institutional and practical reforms. Subsequently, the implementation of those recommendations is examined in the framework of a "compliance procedure", assessing whether they have been implemented satisfactorily, partly or have not been implemented 18 months after the adoption of the evaluation report.

Fifth Evaluation Round: "Preventing corruption and promoting integrity in central governments (top executive functions) and law enforcement agencies".

Here is the latest evaluation report of 23 January 2020:



**GRECO_Eval_2019_3_
Belgium.pdf**

Execution of judgments and decisions of the European Court of Human Rights

Statistical data

On 20 October 2020, there were 35 cases (30 cases on 31 December 2019) against Belgium pending before the Committee of Ministers ("CM") for supervision of their execution. Among these cases, 23 cases were "leading cases" evidencing different problems (18 leading cases on 31 December 2019) and four problematics were examined by the CM under the enhanced supervision procedure (see below). In 2019, the CM was seized by 7 new leading

cases (1 new leading case in 2018) and the amount of just satisfaction awarded was € 211 561 (the previous one was € 38,905 in 2018). In 2019, five cases against Belgium were closed by the adoption of a Final Resolution (24 cases closed in 2018).

Main cases / groups of cases under the Committee of Ministers' supervision

As already mentioned, on 20 October 2020, four problematics were under enhanced supervision – specific procedure for complex and/or structural problems – by the CM:

- 1) the inadequate, especially in terms of impartiality, and insufficient procedural safeguards to ensure effective examination of complaints against results of elections (new case [Mugemangango](#))
- 2) the excessive length of civil proceedings before first instance courts (case of [Bell](#))
- 3) the detention of internees (criminal non liability due to their mental health disorders) in prison psychiatric wings without appropriate care and lack of effective remedies ([group of cases L.B. and pilot-judgment W.D.](#))
- 4) the poor conditions of detention in prisons, including problems of overcrowding, hygiene and dilapidation, lack of out-of-cell activities and lack of effective remedies ([group of cases Vasilescu](#))

For a fuller overview of the pending cases against Belgium (enhanced and standard procedures of supervision) as well as main reforms adopted in the past (closed cases), see the [Country Factsheet](#) available on the website of the Department for the Execution of Judgments of the European Court of Human Rights. More detailed information on the status of execution of every closed and pending cases can be found through [Hudoc EXEC](#).



Social and Economic Rights (ECSR)

The European Committee of Social Rights (ECSR) monitors compliance with the [European Social Charter](#) under two procedures: the national periodic reporting system and the collective complaints procedure. Following a decision taken by the Committee of Ministers in 2006, the provisions of the Charter have been divided into four thematic groups. States present a report on the provisions relating to one of the four thematic groups on an annual basis. Consequently each provision of the Charter is reported on once every four years.



**Belgium & the
European Social Char**



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Venice Commission

The [European Commission for Democracy through Law](#) (Venice Commission) is the Council of Europe's advisory body on constitutional matters. It provides States and international organisations working with it (EU, OSCE/ODIHR) with legal advice in the form of opinions.

n/a for the European Commission for Democracy through law for the period 2015-2020