



International Convention on the Elimination of All Forms of Racial Discrimination

Distr.: General
27 April 2021

Original: English

Committee on the Elimination of Racial Discrimination 103rd session

Summary record of the 2814th meeting

Held via videoconference on Tuesday, 20 April 2021, at 12.30 p.m. Central European Summer Time

Chair: Ms. Li

Contents

Consideration of reports, comments and information submitted by States parties under article 9 of the Convention

Combined twentieth to twenty-second periodic reports of Belgium

This record is subject to correction. Corrections should be set forth in a memorandum and also incorporated in a copy of the record. They should be sent within one week of the date of the present record to the Documents Management Section (DMS-DCM@un.org).

Any corrected records of the public meetings of the Committee at this session will be reissued for technical reasons after the end of the session.



The meeting was called to order at 12.30 p.m.

Consideration of reports, comments and information submitted by States parties under article 9 of the Convention

Combined twentieth to twenty-second periodic reports of Belgium (CERD/C/BEL/20-22; CERD/C/BEL/Q/20-22)

1. *At the invitation of the Chair, the delegation of Belgium joined the meeting.*
2. **Mr. Pecsteen de Buytswerve** (Belgium), introducing his country's combined twentieth to twenty-second periodic reports (CERD/C/BEL/20-22), said that the drafting process had involved close collaboration between the various governments within the federal system, as well as consultations with civil society. The Belgian delegation, which included representatives of the federal Government and of several federated entities, reflected the wide range of authorities that were responsible for implementing the Convention.
3. **Ms. Claus** (Belgium) said that work had been under way since February 2021 to ensure that the Federal Institute for the Protection and Promotion of Human Rights would be fully operational by July 2021. The establishment of that body was the first step towards setting up a national human rights institution covering the entire territory of the country. The committee of experts tasked with evaluating anti-discrimination legislation had made a series of recommendations, several of which had already been implemented. The committee was expected to submit its final report in November 2021.
4. The widespread mobilization of Belgians in support of the Black Lives Matter movement had raised awareness of the need to address systemic racism through specific policy measures. The integrated police force had launched several pilot projects with a view to developing a policy on the prevention of ethnic profiling. Steps were also being taken to optimize the systems whereby hate crimes and hate speech incidents were recorded. Those improvements were aimed at obtaining more information about the groups that were targeted in such cases.
5. Efforts were under way to improve the monitoring of diversity. For example, a project entitled "Improving Equality Data Collection in Belgium" was aimed at identifying gaps in data relating to equality. Its results would be presented in June 2021, and there were plans to conduct a follow-up project thereafter.
6. A draft national action plan against racism, setting out specific measures in fields such as employment, education and housing, had been prepared in collaboration with civil society and the Interfederal Centre for Equal Opportunities and Opposition to Racism (Unia). The draft was currently under discussion and would be adopted by the end of 2021. Several awareness-raising campaigns against racism had been carried out during the reporting period. A travelling exhibition designed to promote a positive image of the Roma community in Belgium would be launched in July 2021 and a new national Roma integration strategy was being drawn up.
7. A special committee responsible for examining the consequences of the country's colonial past had been set up within the Federal Parliament in July 2020. The topics of colonialism, neocolonialism and imperialism had been added to the secondary school curriculum in the Flemish Community, while information about the Belgian colonization of the Congo had been included in textbooks in the French Community.
8. The adoption of a new national action plan to combat trafficking in human beings was currently under discussion. Lastly, a number of measures had been taken to assess and mitigate the impact of the coronavirus disease (COVID-19) pandemic on particularly vulnerable groups, with a focus on ensuring diversity and inclusion in the steps taken in response to the pandemic.
9. **Mr. Diaby** (Country Rapporteur), noting that the periodic report had been submitted one year late, said that the fact that the State party did not process data revealing individuals' ethnic origin made it difficult for the Committee to assess the situation of racial discrimination in Belgium. He wondered whether there were any plans to collect anonymized

data on ethnic origin or to develop other tools that would help the State party track its implementation of the Convention.

10. The Anti-Discrimination Act called for the adoption of two royal decrees on special measures for groups at risk of discrimination, aimed respectively at the public and private sectors. Only one such decree, the one covering the private sector, had been issued so far. He would like to know whether a royal decree would be adopted for the public sector and what measures had been taken to enable companies to implement special measures under the Act. He would welcome more information on the amendments that had been adopted to the laws against racism and discrimination since 2014 and the progress made in ensuring access to justice for organizations, and he would also be grateful if the delegation could provide disaggregated data on access to justice at all levels of the justice system. With reference to paragraph 15 of the periodic report, he would like to know what stage had been reached in evaluating the effectiveness of the three anti-discrimination laws and how soon the 33 recommendations made by the committee of experts referred to in the report would be implemented.

11. The Committee welcomed the State party's ratification of the 1961 Convention on the Reduction of Statelessness but was concerned about the fact that, unlike persons with refugee status, stateless persons were not automatically granted residence in Belgium and were therefore at risk of discrimination. It would be useful to the Committee to hear whether legislation would be passed to address that lack of protection. The Committee was also concerned that articles 23, 23/1 and 23/2 of the Belgian Nationality Code, on the conditions in which a person could be stripped of Belgian nationality, created two categories of Belgians and could lead to discrimination against persons from immigrant backgrounds. He asked whether the State party planned to amend its legislation on nationality to take into consideration the provisions of the 1961 Convention.

12. The Committee would find it useful to learn whether the State party intended to adopt a national action plan against racism covering the entire country, together with a time frame for carrying it out, and to establish a body with adequate funding and human resources to monitor its implementation, in cooperation with civil society. The Committee welcomed the creation of the Federal Institute for the Protection and Promotion of Human Rights. It would like to know more about the extent to which civil society had been involved in its establishment, the way in which complaints could be submitted to it, the types of discrimination that fell within its jurisdiction and its cooperation with other human rights institutions.

13. With regard to the various threats faced by Unia, he wondered what measures would be taken to ensure that it could continue to operate properly, to protect its staff and board of directors against civil and criminal liability and to ensure that the process for appointing board members was clear, transparent and participatory. Lastly, he would be interested to hear whether the State party had conducted a campaign to raise awareness of the Convention and, if so, when the campaign had been held and whom it had involved.

14. **Ms. Stavrinaki** (Country Task Force) said that she would like to know what measures had been taken to ensure that all acts of police violence, including those motivated by racial discrimination, were investigated and punished; whether a comprehensive, systematic assessment of the extent of police violence was being conducted; what steps had been taken to prevent abuses in the application of restrictions related to the pandemic, especially in neighbourhoods with significant migrant populations; what was being done to facilitate access to justice for victims of racist crimes, regardless of their migration status; and what measures were being taken to help police officers strike a balance between their duty to enforce laws that concerned specific groups and their obligation to protect all persons under the country's jurisdiction against racial discrimination.

15. She asked whether racial profiling was explicitly prohibited by law and, if not, whether the issue of profiling was addressed in the internal police guidelines; what specific measures had been taken to prevent racial profiling by police officers; how cases of racial profiling by police officers were dealt with; and what measures had been taken to promote diversity within the police force and to ensure that racial discrimination within the force was investigated and punished.

16. Regarding the steps taken to optimize the collection of data on hate crimes and hate speech, she asked how those data would be used, whether they would make it possible to identify cases of intersectional discrimination and whether information on ethno-religious hate crimes would be collected. She enquired as to how the number of prosecutions and convictions for hate crimes compared with the number of complaints submitted and what measures were being taken to ensure that victims received support and protection irrespective of their migration status and with due regard for their specific needs.

17. She asked whether the State party was taking steps to ensure that racist hate speech was handled in the same way as ethno-religious hate speech; what measures were taken to combat racist hate speech in the political sphere, in the media and online, including through cooperation between the authorities and major social networks; whether the delegation could provide data on the number of incidents of racist hate speech in the media and online that had been reported, investigated and punished; and how the authorities were dealing with racist hate speech related to the pandemic.

18. **Mr. Guissé** (Country Task Force) said that he would be interested to know what steps had been taken to prevent, investigate and punish violence committed by the police during the deportation of foreign nationals. He wondered what had been done to strengthen the Inspectorate General of the Federal and Local Police, to provide it with sufficient human and financial resources and to ensure that it was independent and impartial. How had the State party ensured that non-governmental organizations (NGOs) were given access to detention centres and were allowed to meet migrants, including those subject to deportation procedures? He wondered how many complaints had been filed in relation to deportation procedures during the reporting period and how they had been resolved.

19. **Mr. Kut** (Follow-up Coordinator) said that, after considering the previous periodic report, the Committee had requested the State party to provide information, within one year, on its follow-up to the recommendations contained in paragraphs 8, 19 and 20 of the Committee's concluding observations ([CERD/C/BEL/CO/16-19](#)). Regrettably, the Committee had received no follow-up report, but the periodic report currently under discussion addressed the three issues to which the recommendations pertained: special measures, discrimination against Roma and Travellers and the treatment of asylum seekers. One recommendation, concerning the issuance of the royal decree to enable public and private entities to adopt policies regarding special measures, had been implemented. In respect of the treatment of asylum seekers, the periodic report described the legal framework governing the detention of persons requesting international protection. He would be grateful for additional information on the current situation and on recent trends in relation to detention at the border.

20. **Ms. Claus** (Belgium) said that Belgium had effective instruments for detecting structural discrimination and inequality, such as socioeconomic monitoring carried out by the Federal Public Service for Employment and by Unia, and the Diversity Barometer, which permitted in-depth analysis in areas such as housing and education. Since 2020, the Government had been working with Unia on the Improving Equality Data Collection in Belgium project, with support from the European Commission, with the aim of creating a hub for the visualization of all available data relating to equality. Specific measures in other policy areas, including the preparation of the national action plan against racism, also took into account the need for better monitoring and data.

21. **Ms. Duhén** (Belgium) said that the formation of a new federal Government increased the prospects for the issuance of a new royal decree establishing a framework for positive action in the public sector. Such a framework would widen access to civil service jobs and tackle the problem of underrepresentation of certain groups. Since February 2013, candidates for federal civil service examinations had been invited to fill in and append to their *curricula vitae* a questionnaire with information about their gender, age and origin. Such information was useful for ensuring the neutrality of tests, for monitoring the effectiveness of actions to promote diversity and for targeting measures to increase diversity in the federal administration.

22. Public authorities in the Brussels-Capital Region were required to implement biennial diversity plans, which included measures for the hiring and advancement of persons of

foreign origin. During the period 2016–2020, one of the goals of the regional government had been to increase the representativeness of the civil service as a reflection of the population of Brussels. In 2020, the region's public institutions had recruited 303 persons from neighbourhoods with an above-average unemployment rate.

23. **Ms. Giovanis** (Belgium) said that positive action in the private sector was regulated by the relevant royal decree adopted in 2019. Under its provisions, the social partners could draw up positive action plans as part of collective labour agreements or in the framework of formal undertakings. Such plans were subject to the requirements set forth in the royal decree and also subject to the approval of the Minister of Labour. The impact of positive action plans had not yet been fully evaluated, but it appeared that employers might view them as an additional administrative burden. However, the Government was working with civil society to raise awareness of the new procedures and was considering other ways to encourage companies to take positive action.

24. **Ms. Duhén** (Belgium) said that, since 2018, the Federal Parliament had adopted minor amendments to the Anti-Discrimination Act, the Anti-Racism Act and the Gender Act. For example, the Act of 4 February 2020 introduced an amendment to the Gender Act in order to strengthen the protection of intersex persons. The mandate of the committee of 12 experts that had been tasked with evaluating the three anti-discrimination acts had been extended until January 2022 owing to the ongoing public health crisis. Some of the 33 recommendations contained in the committee's interim report of February 2017 had already been implemented, notably those on the establishment of a federal human rights institute; on "mystery shopping" in the context of workplace discrimination; on training for members of the judiciary, the police and the labour inspectorate; and on the protection of female workers in the event of pregnancy and maternity. The Government was in the process of implementing other recommendations, including those on multiple discrimination, on the definition of harassment, on differential treatment of the sexes based on the concept of "genuine and determining occupational requirements" and on the protection against reprisals carried out against workers who reported discrimination. The Flemish Region and Community had carried out an evaluation of the three anti-discrimination acts and had published the results in March 2021.

25. **Ms. Leclercq** (Belgium) said that under Belgian law, the country's nationality could be withdrawn under certain circumstances. The withdrawal procedure was initiated by the Public Prosecution Service and included several legal safeguards. Only persons with a second nationality could be deprived of their Belgian nationality, only by a court, and only if they committed particularly serious offences. In 2009 and 2018, the Constitutional Court had heard cases revolving around the applicability of withdrawal of nationality to specific categories of persons – Belgians who could be stripped of their nationality, and those who could not – and in both cases had ruled that the procedure made an objective and justified distinction between the two categories. Belgians who acquired nationality automatically as children and who had particularly strong links with the national community thus could not be stripped of their nationality. On the other hand, nationals of other countries who applied for and received Belgian nationality after the age of 18, and who therefore did not enjoy such close or long-standing ties with Belgium, could be stripped of their nationality if an investigation by the Crown Prosecutor found that they committed serious acts or misconduct. The procedure was designed to ensure respect for the rights of all Belgians by excluding from the national community those who did not accept the fundamental rules of the nation's communal life and who seriously violated the right to liberty of their fellow citizens.

26. **Ms. Claus** (Belgium) said that, in January 2020, the federal Government had put forward a proposal to establish an interministerial conference on racism and antisemitism – a proposal that had been approved by the governments of the communities and regions. The conference's main task was the preparation, adoption and implementation of the national action plan against racism. On 25 September 2020, the conference had adopted an initiation report setting out the strategic and operational objectives of the action plan. The conference had continued its efforts under the new Government and in January 2021 had commenced technical discussions with representatives of the various administrations, Unia and civil society. The Government had thus recognized the need to engage stakeholders in the development of the national action plan against racism, which it aimed to adopt in 2021.

27. **Ms. Leclercq** (Belgium) said that the new Federal Institute for the Protection and Promotion of Human Rights would have jurisdiction over all human rights issues that did not fall within the competence of existing bodies. Such issues included linguistic discrimination, the relationship between business and human rights and certain aspects of the fight against terrorism. The Institute was not, at the outset, authorized to receive individual complaints, but it could inform citizens how to exercise their rights and direct them to lodge complaints with other mechanisms. The Institute was empowered to initiate proceedings before the Council of State and the Constitutional Court in order to ensure that legislation respected human rights, and it had the authority to bring class actions to protect human rights and fundamental freedoms. Another of the Institute's functions was to organize consultations and engage in dialogue with human rights bodies, NGOs and other institutions. It had begun to make contact with potential partners, but it had not yet concluded any formal cooperation agreements.

28. **Mr. Maenaut** (Belgium) said that, in accordance with the Flemish government coalition agreement of October 2019, the Flemish government did not plan to renew its cooperation agreement with Unia when it came to an end in March 2023. The Flemish authorities intended to hold consultations with Unia and relevant domestic and international stakeholders with a view to setting up an equal opportunities centre. The work of the new centre would be based on Flemish anti-discrimination legislation and would include tasks currently assigned to Unia and the Flemish Ombudsperson Service. The Flemish authorities would cooperate with other human rights institutions in Belgium to establish an intergovernmental human rights mechanism, in line with the Paris Principles.

29. **Ms. Claus** (Belgium) said that the independence of Unia was guaranteed by the cooperation agreement of 12 June 2013 between the federal authorities, the regions and the communities, which stipulated that Unia was authorized to carry out its own budget management and recruitment. Its directors were accountable for acts committed in the performance of their duties and could not be removed from their posts.

30. **Ms. Rochez** (Belgium) said that the Government had invested heavily in police training aimed at preventing violence, abuse and other rights violations. Appropriate training played a crucial role in fostering the values and developing the skills and attitudes required of professional police officers. Officers received comprehensive training at different stages of their careers on subjects such as the law, human rights and ethics. Theoretical and practical training covered subjects such as how to control violence and the principles and techniques of de-escalation; communication and psychosocial skills; stress and conflict management; and anti-racism and anti-discrimination legislation. Diversity training was considered a priority and was provided by external partner organizations such as Unia or in cooperation with such bodies. Besides training, it was expected that the widespread introduction of police body cameras would play a major role in the prevention of police violence and the punishment of officers who violated personal rights and freedoms.

31. The Government had a zero-tolerance policy for discrimination, undignified treatment or excessive coercive actions by the police, and any such behaviour was dealt with at the disciplinary and criminal levels by internal affairs units and by the relevant authorities of all three branches of government. Anyone could file a complaint with such supervisory bodies.

32. All police interventions were governed by a strict legal framework in line with international human rights standards, and ethnic profiling was prohibited. Police officers who discriminated on grounds of any of the protected categories were criminally liable. The processing of personal information revealing a person's racial or ethnic origin was prohibited by law, and there was an exhaustive, legally defined list of circumstances and scenarios in which police could conduct identity checks. Such a check could never be based solely on the apparent ethnic origin of a person.

33. **Ms. Kormoss** (Belgium) said that in cases of police violence, punishment of the perpetrators was the responsibility of the competent authorities and was carried out in keeping with the relevant procedures. Any breaches, whether subject to disciplinary proceedings or not, were also subject to administrative sanctions.

34. **Mr. François** (Belgium) said that a workshop had been held in early 2020 on the registration of hate crimes, and the resulting recommendations would be taken into

consideration with regard to hate speech as well. A working group had subsequently examined how to apply the recommendations to amend the ministerial and judicial circular relating to the investigation and prosecution of discrimination and hate crimes. Specifically, that would entail integrating police and judicial databases and better defining hate speech and hate crimes through the introduction of 11 categories, including Afrophobia, antisemitism, Islamophobia, gender-based violence and disability. The objectives were to ensure that more relevant statistics would be available, to improve the circular and local crime control policies and to facilitate investigations.

35. The penalty for incitement of hatred was imprisonment of 1 month to 1 year and/or a fine of €300 to €6,000, but judges could instead impose community service or probationary measures. The circular paid particular attention to hate speech in online social media and discussion forums. In May 2016, the European Commission had agreed with the major players in the industry on a code of conduct to counter illegal hate speech online, and the federal police and Unia had trusted flagger status in Belgium and thus were authorized to report offending content. Reports by the federal police were immediately transmitted to the prosecution service. Under the Code of Criminal Procedure, the prosecution service could disable access to websites that contained hate speech, but only for people accessing them from devices based in the country.

36. Violations of press laws – except those relating to racism and xenophobia, which remained under the jurisdiction of the criminal courts – were under the remit of the assize courts, which rarely convened for such matters. However, the penalties in the Criminal Code were sometimes applicable to hate speech, depending on the specific act committed, the severity of the offence and the judge's discretion. It had recently become possible to file a complaint of hate speech or hate crimes online. Victims had the same entitlements as victims of other criminal offences and could receive assistance from the victim services of the police and prosecution services. He did not have specific data on the number of incidents of hate crimes since the onset of the pandemic, but he acknowledged that the Asian community had reportedly been subjected to hate speech online and verbal assaults in public.

37. Hate speech was also a priority issue for the federated entities. For instance, fighting online hate speech and extremism was an explicit goal of the anti-radicalization action plan of the Flemish Community, which was also exploring the role of information and communications technologies in building social cohesion. The French Community, for its part, had adopted a four-pronged action plan on hate speech.

38. **Ms. Shepherd** said that she welcomed the State party's efforts to address institutional and structural discrimination and to reform its curriculum to better address the country's colonial past and the contribution of persons of African descent to the country's enrichment and development. She hoped that those efforts would continue in the context of the International Decade for People of African Descent and the twentieth anniversary of the adoption of the Durban Declaration and Programme of Action.

39. **Mr. Yeung Sik Yuen** said that he would like to understand why offences with racist or xenophobic elements were not heard by the assize courts and carried a relatively light penalty. The Committee typically considered such elements as aggravating circumstances. He would also appreciate information on how many cases of racism and racial discrimination, including against persons of Asian origin since January 2020, had been reported to the police, how many had been prosecuted and how many had led to a guilty verdict, as well as an indication of what the strictest sentences had been.

40. **Ms. Tlakula** said that it would be helpful to know how many people had benefited from the special measures for at-risk groups mentioned in paragraph 29 of the report.

41. **Mr. Diaby** said that it would be advisable to close the legal gap preventing the courts from banning freedom-curtailling parties. Most schools in the Flemish Community restricted the wearing of religious symbols, despite the fact that there was no corresponding prohibition in the law. He would be interested in receiving further information on any measures to ensure that policies on the display of religious symbols in schools, workplaces and the courts and policies restricting the public use of certain types of clothing that identified individuals as members of ethnic or religious groups were in line with anti-discrimination laws.

42. **Mr. Peeters** (Belgium) said that the history of colonization was taught at both the primary and secondary levels in the Flemish Community. Primary school children also learned about racism, discrimination and social inequities. Since September 2019, secondary school students were expected to be able to situate events in a particular historical context and to be aware of concepts such as republics, democracy, inequality and imperialism, so that they could study the past and the present in a critical manner. Particular attention was paid to human rights and the prevention of all forms of discrimination by raising awareness about prejudice and by promoting respect for diversity. The Flemish government provided subsidies to support teachers in presenting those topics.

43. **Ms. Ouahdi** (Belgium) said that in the French Community, the issues of colonization and decolonization, especially in the context of the history of Belgium in the Congo, were covered in the learning objectives and history curricula and textbooks, as well as supplementary teaching resources. Students were expected to grasp the concept of colonization, including in the contemporary era, by the end of compulsory education. Pursuant to a 2009 decree on the transmission of historical memory, a number of reference centres developed tools such as exhibitions and training methods to help teachers present the history of colonization and decolonization.

44. **Mr. François** (Belgium) said that article 150 of the Constitution provided for all criminal offences and violations of press laws, except those stemming from racism and xenophobia, to be tried before the assize courts. In practice, however, that provision also applied to hate speech, because in certain circumstances press law violations were assimilated with hate speech rather than with hate crimes. That particularity of the Belgian legal system had no bearing on the applicable penalties laid down in the Criminal Code, which also provided for hate as an aggravating circumstance of certain offences. Therefore, there was no need for stricter penalties. It was, however, a major barrier to the prosecution of press law violations – and by extension hate speech – since such violations fell strictly under the competence of the assize courts, but they were considered too minor to warrant the convening of those courts. That said, the assize court would soon convene in Liège in a case involving sexist hate speech. Article 150 of the Constitution was being amended. A bill had been put forward in the Federal Parliament to expand the exception to the jurisdiction of the assize courts to include all the protected categories. He could provide no specific data on the sentences handed down for hate speech and hate crimes, but the judgments in such cases were published on the website of the prosecution service.

45. **Ms. Claus** (Belgium) said that the royal decree issued in 2019 provided for special measures to ensure that certain vulnerable persons were not disadvantaged in the labour market. The measures could be applied only on the basis of official statistics demonstrating that specific vulnerable groups encountered difficulties. By law, the Ministry of Justice had the power to oversee the establishment of associations and non-profit organizations and to deny their applications when their stated goals were contrary to the law or public order. There was, however, no law banning freedom-curtailing parties, and in the past, proposed constitutional amendments to do so had not been adopted. It was nonetheless possible to cut back public funding for a freedom-curtailing party.

The meeting rose at 2.35 p.m.