



**International Convention on  
the Elimination of All Forms  
of Racial Discrimination**

Distr.: General  
15 August 2019  
English  
Original: French  
English, French and Spanish only

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**Committee on the Elimination of Racial Discrimination**

**Combined twentieth to twenty-second periodic  
reports submitted by Belgium under article 9 of  
the Convention, due in 2018\* \*\***

[Date received: 3 May 2019]

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\* The present document is being issued without formal editing.

\*\* The annexes, including the endnotes, are on file with the secretariat and are available for consultation. They are also available on the Committee's website.



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## Introduction

1. Pursuant to article 9 (1) of the International Convention on the Elimination of All Forms of Racial Discrimination, Belgium has prepared the present report on the legislative, administrative and other measures it has adopted to give effect within the country to the international obligations arising from the ratification of the Convention.
2. The sixteenth, seventeenth, eighteenth and nineteenth periodic reports of Belgium, presented as a single document, were considered at the Committee's meetings of 6 and 7 February 2014. The Committee's concluding observations on that report were officially published on 14 March 2014.
3. The present document is being submitted to the Committee in line with paragraph 29 of the concluding observations (CERD/C/BEL/CO/16-19), which recommends that Belgium submit its twentieth to twenty-second periodic reports in a single document that updates the information in the previous report and addresses the issues raised in the Committee's concluding observations of 14 March 2014.
4. The present report endeavours to provide detailed responses to the observations contained in section C, "Concerns and recommendations", of document CERD/C/BEL/CO/16-19.
5. The figures provided in the present report cover the period from 21 February 2014 to 31 December 2018, and the information on policies and the legal framework covers the period from 21 February 2014 to 31 March 2019.
6. It should be recalled that, after six State reforms, Belgium has evolved towards a unitary federal structure (see the common core document). There is no hierarchical distinction between the federal authority and the federated entities (communities and regions). The different authorities ensure the implementation of the Convention according to their areas of jurisdiction.
7. During the preparation of this report, a meeting was held on 28 March 2019 between representatives of the Belgian authorities, civil society and several independent bodies. A list of the institutions and organizations present is contained in annex 3.

## Article 1 Definition of discrimination

### A. Legal framework

8. The legislation establishing the federal framework in the area of equal treatment and action against discrimination comprises three laws:
  - The Act of 30 July 1981 penalizing certain acts inspired by racism and xenophobia, as amended by the Act of 10 May 2007 (*Moniteur belge* (Belgian Official Gazette), 30 May 2007) (hereinafter "Anti-Racism Act").
  - The Act of 10 May 2007 penalizing certain forms of discrimination (*Moniteur belge*, 30 May 2007) (hereinafter "Anti-Discrimination Act").
  - The Act of 10 May 2007 on gender discrimination (*Moniteur belge*, 30 May 2007) (hereinafter "Gender Act").
9. The legal instruments adopted by the regions and communities (decrees and orders) may be found in annex 4.

### B. Definitions

10. At the federal level the definitions of discrimination have not been altered since 2013 and are thus identical to those in the previous report of Belgium. They may be found in annex 5.

11. The definitions used in the legislative instruments adopted by the regions and communities (decrees and orders) in order to incorporate the provisions of European Union directives into national law within their areas of jurisdiction are similar to those contained in federal legislation and should therefore not create any inconsistencies in the understanding of discrimination in general and racial discrimination in particular.

## **Article 2**

### **Policies to combat racism**

#### **A. International commitments**

12. Since 2014, Belgium has ratified the following instruments:

- International Labour Organization (ILO) Promotional Framework for Occupational Safety and Health Convention, 2006 (No.187) (31 May 2018)
- ILO Medical Care and Sickness Benefits Convention, 1969 (No.130) (22 November 2017)
- ILO Working Conditions (Hotels and Restaurants) Convention, 1991 (No.172) (14 June 2017)
- ILO Chemicals Convention, 1990 (No.170) (14 June 2017)
- ILO Invalidity, Old-age and Survivors' Benefits Convention, 1967 (No.128) (14 June 2017)
- ILO Part-time Work Convention, 1994 (No.175) (8 June 2016)
- ILO Safety and Health in Construction Convention, 1988 (No.167) (8 June 2016)
- ILO Safety and Health in Agriculture Convention, 2001 (No.184) (10 November 2015)
- ILO Domestic Workers Convention, 2011 (No.189) (10 June 2015)
- ILO Vocational Rehabilitation and Employment (Disabled Persons) Convention, 1983 (No.159) (10 June 2015)
- ILO Workers with Family Responsibilities Convention, 1981 (No.156) (10 April 2015)
- Convention on the Reduction of Statelessness, 1961 (10 June 2014)

13. Belgium ratified the European Social Charter on 16 October 1990 and the European Social Charter (revised) on 2 March 2004, accepting 87 of the 98 paragraphs in the revised Charter. In June 2015, Belgium expressed its consent to be bound by four additional provisions (articles 26 (2), 27 (1) and (2), and 28 of the revised Charter), bringing the total number of provisions that it has accepted to 91.

#### **B. Constitutional and legislative amendments and developments**

14. The laws against racism and discrimination have undergone only minor amendment since 2014. Parliament has adopted new terms of reference for the Interfederal Centre for Equal Opportunities and Opposition to Racism (Unia). By the Act of 21 December 2018, Parliament aligned the Judicial Code with special laws such as the Anti-Discrimination Act with respect to the conditions in which an organization may take legal action.

15. Under article 52 of the Anti-Discrimination Act, the implementation and effectiveness of that law and of the Gender Act and the Anti-Racism Act are to be assessed every five years. The first such assessment should thus have been carried out in 2012. In 2016, a committee of 12 experts was finally given the task of evaluating the three anti-discrimination acts,<sup>1</sup> with a mandate covering the period 2016–2021. In February 2017, the committee completed its first interim report containing 33 recommendations for improving

the effectiveness and implementation of this legislation. Laws to integrate some of these recommendations are currently being drafted.

## **C. Other measures**

### **C.1 National action plan against racism**

16. In 2001, in Durban, Belgium undertook to formulate a national action plan against racism. The Federal Parliament confirmed that commitment through a federal resolution of 2 July 2015 concerning the introduction of inspections targeting discrimination in the workplace. Belgium reaffirmed its commitment in the context of the second universal periodic review.<sup>2</sup> To prepare the national action plan, the federal Government funded a study, carried out by the University of Ghent,<sup>3</sup> which made very specific policy recommendations intended to provide a basis for political negotiations. In 2017, some 50 civil society organizations formed a coalition which then submitted 11 concrete policy proposals to the Government. In early 2019, the new Minister with responsibility for equal opportunities met with civil society stakeholders during the development of the action plan. The federal administration is now engaged in preparations.

17. In light of the proposals made by civil society in May 2017, the Brussels-Capital Region began work on its own regional action plan against racism and discrimination, which was adopted by the regional government in February 2019. Specifically, the regional action plan consists of 23 actions to be carried out in 2019 and 2020. In the Belgian federal context, the Brussels Region acts within its own areas of jurisdiction, particularly in employment and housing.

18. An action plan to counter discrimination, embracing the three objectives of equality and diversity among youth; diversity in the media, culture and new media; and consistency in public action, was adopted and implemented by the French Community for the period 2014–2019.

### **C.2 Bodies which promote equality**

#### *C.2.1 Establishment of a national human rights institution*

19. In the context of the 2011 and 2016 universal periodic reviews, Belgium undertook to establish a national human rights institution in compliance with the Paris Principles. That commitment was reflected in a federal government decision of October 2014.

20. Since 2014, there has been a steady effort to establish the national human rights institution. The approach has been to develop the institution in stages, beginning with the creation of a federal human rights institute with general and residual jurisdiction, enabling it to address all matters relating to federal jurisdiction without affecting the powers already granted to other bodies, but also giving it general powers of consultation and advocacy that allow it to develop a global vision of human rights while respecting the different jurisdictions of each level of authority.

21. This approach should ensure that the institute progresses rapidly to become an intergovernmental body. The conclusion of a cooperation agreement between the federal State and the federated entities will ensure the full coverage of the human rights apparatus and thus complete the Belgian architecture for the protection and promotion of human rights. Such an approach would also meet the requirements of the Paris Principles.

22. Work on the draft legislation to establish a national human rights institute was delayed by the crisis that led to the resignation of the Government in December 2018. The text was brought before the Federal Parliament as Bill No. 54/3670 on the establishment of a federal institute for the protection and promotion of human rights. At the time of writing, this proposal was under discussion by the Foreign Affairs Committee of the Federal Parliament.

23. The Human Rights Platform is a joint initiative by 15 independent public institutions whose mandate is to protect and promote certain fundamental rights of all persons living in

Belgium. These institutions meet once per month to discuss matters of general interest and also invite outside bodies such as the European Union Agency for Fundamental Rights, the human rights units of the Federal Public Service for Justice or the Federal Public Service for Foreign Affairs, and civil society organizations.

### C.2.2 *Myria budget*

24. In 2018, the total budget of the Federal Migration Centre (Myria) was €1,995,984. It received structural funding from the federal Government (under the Federal Public Service for Labour budget line) amounting to €718,000 and from the National Lottery amounting to €872,319.

25. In 2018, Myria also received funding for certain projects. First, it received €64,000 for a project concerning family reunification for internationally protected persons, carried out in cooperation with the Office of the United Nations High Commissioner for Refugees (UNHCR). Second, it received €81,665 for its involvement in the European Migration Network as a national contact point. For its participation in the IMMIGBEL research project concerning the situation of migrants in the labour market, under the auspices of the Science Policy Department of the Federal Public Planning Services, Myria received €20,000 as the first tranche of a planned €80,000. Myria also received a one-off payment of €200,000 in 2018 to cover several years' monitoring of the partial implementation of Directive 2014/54/EU concerning the free movement of workers.

### C.2.3 *Collaboration between Myria and Unia*

26. Myria cooperates with Unia on matters of discrimination against migrants.<sup>4</sup>

27. At the formal level, under a memorandum of understanding signed between Myria and Unia on 20 October 2017, the two institutions agreed to collaborate, liaise and ensure their representation at the European Network of National Human Rights Institutions. Unia and Myria also agreed to collaborate, liaise and contribute jointly on behalf of the two institutions in the context of reporting to the United Nations and the Council of Europe.

28. In practice, this collaboration is reflected in a sharing of cross-cutting services and a close relationship in which members of the Myria board sit on the board of Unia. Myria collaborates with Unia on many substantive issues, reflecting a basic framework of shared values between the two institutions. Myria and Unia regularly hold shared management and office meetings. A Myria official acts as liaison officer for shared topics, including individual cases. Myria contributes to the *Monitoring socioéconomique* reports published by Unia and the Federal Public Service for Employment.<sup>5</sup>

## C.3 **Special measures**

29. The Royal Decree of 11 February 2019 concerning positive actions (special measures) for employers to take in respect of at-risk groups (youth, persons with little formal education, workers aged 55 or above, members of ethnic minority groups and migrants) was published in the *Moniteur belge* on 1 March 2019. The decree is intended to provide legal protection for employers wishing to initiate measures of this kind and is aimed at the private sector.

30. The decree sets out several guiding principles. First, social partners can conclude collective labour agreements at the enterprise or sectoral level. These agreements define positive actions to be taken in order to optimize access to the labour market for this target group. The enterprises can also develop a positive plan by means of a formal undertaking. Collective labour agreements and formal undertakings are then submitted to the Minister of Labour for approval, which strengthens legal protection.

31. Finally, enterprises will be able to introduce enterprise-level action plans simply by so informing the authorities; there is no approval procedure for these plans. Examples of such actions are bursaries, training courses or internships for a disadvantaged group or groups.

## C.4 Anti-Semitism and Islamophobia

### C.4.1 *Monitoring and measures to combat anti-Semitism*

32. At the federal level, the anti-Semitism watchdog unit was reactivated in early 2019 (see common core document, para. 190). This has made it possible to step up cooperation between representatives of the Jewish community, the Government and other stakeholders involved in combating anti-Semitism. The unit enhances the efforts of the Belgian public authorities to combat anti-Semitism, serves as a mechanism for awareness-raising and brings together the main stakeholders in those efforts. The unit organizes regular cooperation and exchanges of views, ideas and concerns between the public authorities and the Jewish community and provides direct channels of communication between them. It can thus handle specific concerns, for example by taking on certain commitments or by validating matters referred to the police and the prosecution service. Since its reactivation in 2019, the unit has been chaired by the Federal Administration for Equal Opportunities, which also serves as its secretariat.

### C.4.2 *Awareness-raising campaigns*

33. A federal awareness-raising campaign against racism was launched on 21 March 2019. It draws attention to stereotypes by means of videos disseminated through social media and at railway stations. The main thrust of the campaign is to counter racial prejudices.

34. In the Flemish Region and Community, an extensive awareness-raising campaign on non-discrimination, entitled "Het is gauw gebeurd",<sup>6</sup> was conducted from September 2017 to March 2018 with the aim of tackling discrimination at work. The campaign was developed through collaboration between the social partners in the Flanders Economic and Social Council (Sociaal-Economische Raad voor Vlaanderen) and autonomous organizations representing vulnerable groups (GRIP and Minderhedenforum). The aim of the campaign was to make people reflect on discrimination and possible discriminatory messages. It was supported by a website, [www.hetisgauwgebeurd.be](http://www.hetisgauwgebeurd.be), containing campaign material and all the available information on discrimination. The campaign also provided a better overview of focal points on discrimination. For further information, see paragraphs 87 and 88 below.

35. With regard to the French Community Commission, in 2016 a special call for projects was issued with the aim of strengthening inclusion and addressing isolation and alienation at the neighbourhood level, with particular emphasis on tackling hate speech and conspiracy theories. Over the period 2016–2020, under the priority "Living together", projects have been sponsored which aim to dispel prejudice and stereotypes. Together with Unia and the Institute for Gender Equality, the Commission has designed two tools to raise awareness of discrimination among government officials at all levels and among the staff of associations: a film made by the Brussels Video Centre in 2017, entitled *Le Signalement* ("Raising the alert"), and a guidebook produced by the association BePax in 2018. The tools are complementary and can be used by trainers, association executives, department heads, responsible persons or anyone wishing to understand how discrimination works; they are used to train officials and association staff.

36. Since 2015, through calls for projects, the French Community has subsidized between 150 and 200 local and community-based projects aimed at promoting citizenship and an intercultural approach, including measures to address racism and promote migrants' rights. In cooperation with the developers of those projects, a public campaign entitled "You're worth more than that" ([www.vousvalezmeuxqueca.be/](http://www.vousvalezmeuxqueca.be/)) was launched in 2017 and again in March 2019. A decree issued on 8 March 2018 strengthened this subsidy system and provided that a campaign against racism is to be held at least every two years. The budget for this policy is €2,200,000.

37. In the German-speaking Community, one of the tasks of the centre for integration and migration is to raise public awareness. The centre has launched a wide-ranging anti-racism campaign to denounce stereotypes and counter racial prejudice. A campaign leaflet explains types of prejudice towards refugees and the arguments against them. The Ministry

and Unia have held several workshops for social organizations aimed at countering hate speech.

#### *C.4.3 Investigation, prosecution and punishment of perpetrators and protection of victims*

38. The Ministry of Justice, the Ministry of the Interior and the College of Prosecutors General have adopted Circular No. COL 13/2013 of 17 June 2013 on the identification and prosecution of discrimination and hate crimes, including gender-based discrimination. The circular provides for the appointment of lead prosecutors in courts at different levels and lead officials in every police district and frontline Federal Police unit, and in other parts of the system as required.

39. The powers of these lead prosecutors and police officers extend to all types of discrimination and hate crime covered by the Anti-Racism Act, the Anti-Discrimination Act, the Gender Act and the “Holocaust denial” law of 23 March 1995. Their separate tasks are described in detail in the circular.

40. The main objectives of the circular are to heighten stakeholders’ awareness of the issues and the existing legislation, facilitate more effective identification and recording of acts of discrimination and hate crimes, strengthen collaboration among stakeholders and provide guidance on criminal justice policy in order to improve the quality of investigations and the overall approach to and processing of cases.

41. The circular requires the public prosecution service to call on the perpetrators of such acts to take prompt action to respect the existing standards of conduct, in the manner which best suits the acts and the characters of the perpetrator and the victim, without imposing a one-size-fits-all approach. Such cases may not be dismissed for reasons of expediency. In the most serious cases (serious threat to a victim’s integrity, arson, organized crime, recurrent actions, serious breach of public order), the circular recommends that the matter be brought before an examining magistrate to obtain an arrest warrant or that the perpetrator be directly summoned before a criminal court. Other options for responding, including criminal mediation, are set out for judges.

42. Training and awareness-raising for stakeholders is crucial. The initiatives being taken include:

- A special mandatory course on discrimination and hate crimes for those in the second year of judicial training, organized by the Judicial Training Institute and developed jointly with Unia and the Institute for Gender Equality, which was held over two days in April 2018 and in February 2019.
- Consideration will be given to the usefulness of holding a specialized course for lead prosecutors.
- Unia has provided training for lead police officers, with the lead prosecutor in attendance, in almost every district in the country (the last of these sessions have been scheduled).
- The COL 13/2013 working group, bringing together all the stakeholders, resumed work on 12 December 2018.
- A general meeting of lead prosecutors was held on 1 March 2019.

43. With the cooperation of the National Institute of Forensics and Criminology, the King Baudouin Foundation, Unia, the Institute for Gender Equality and the College of Prosecutors General, research is under way to investigate two issues that have been identified: underreporting and the high number of cases closed for technical reasons.

44. In Belgium, reception and assistance services for the victims of offences are the responsibility of the Communities.

45. There are 28 law centres providing reception services (14 operated by the Flemish Community, 13 by the French Community and 1 by the German-speaking community). These provide victims and their families with information on ongoing legal proceedings and specific information on their case, for example an explanation of the significance of investigative activities. They support and accompany victims and their families throughout

legal proceedings, for example during the release of evidence or a reconstruction and, where necessary, direct victims towards specialized departments.

46. The assistance for victims comprises social, psychosocial, legal and practical support as part of an overall approach to deal with the after-effects of the offence in the short, medium and long term, independently of the victim's complaint. Victim assistance is organized by recognized agencies and subsidized by the Communities. The providers in the Flemish Community are the Centra Algemeen Welzijnswerk (CAWs) (11), in the French Community the Victim Assistance Services (20) and in the German-speaking Community the Sozial-Psychologisches Zentrum.

47. The reception and assistance services for victims are provided free of charge.

#### *C.4.4 Examination of the underlying causes of anti-Semitism and Islamophobia*

##### Anti-Semitism

48. In 2015, Unia observed a significant drop in reports of anti-Semitism: 20 cases were opened on the basis of 57 reports.<sup>7</sup> Holocaust deniers maintained a strong presence on social networks. In 2016, Unia registered a spike in reports of anti-Semitism and Holocaust denial, with 109 acts brought to its attention. This was the third spike seen in 10 years; those in 2009 (108 reports) and 2014 (130 reports) were mostly linked to two operations conducted by the Israeli army in the Gaza Strip. These two operations triggered widespread reaction. Among the criticisms of Israeli policy there were also anti-Semitic and denialist comments, often the two combined. This was not the case in 2016, even though the Israel-Palestine conflict continues to fuel hostility towards the Jewish community in some quarters.

49. Unia considers that the effect of the attacks of 22 March 2016 in Brussels and Zaventem cannot be discounted. More than one third of the reports concerned statements on the Internet, mainly on social networks. While reports of verbal abuse and threats, acts of vandalism and damage to buildings, especially synagogues, have levelled off and even declined since 2015, those concerning denialism, or approval and justification of the Nazi regime, continue to increase. Acts of physical violence remain rarer, the tragic exception being the shooting in May 2014 at the Jewish Museum of Belgium in Brussels.

50. Following the spike in reports seen in 2016, Unia recorded 57 alleged acts of anti-Semitism and Holocaust denialism in 2017. This decrease should be interpreted with caution, as it reflects only the Internet, an area in which Unia has observed a general decline in reporting for all criteria combined. This is explained partly by the fact that Internet users employ other reporting channels, mainly social media, to react to online hatred. Between 2017 and 2018, the number of anti-Semitic incidents almost doubled from 56 to 101.

51. A study of anti-Semitism by the European Union Fundamental Rights Agency<sup>8</sup> examined the situation in Belgium in detail. This report presents the main conclusions of the Agency's second survey concerning Jewish people's experiences and perceptions regarding hate crimes, discrimination and anti-Semitism. The study shows that 81 per cent of interviewees mentioned the public arena as the most frequent source of hostility over the past five years. The European average is around 70 per cent.

##### Islamophobia

52. In 2015, Unia opened 330 cases involving religious or philosophical beliefs – some 11 per cent more than in 2014. Among these, 91 per cent (301) concerned Islam.

53. In 2016, Unia opened 390 such cases, an increase of 18 per cent in one year. Islam accounts for around 90 per cent of the cases opened under the category "religious or philosophical beliefs". Approximately 40 per cent of these cases concern potential incitement to hatred in the media (chain e-mails, social networks, websites) and 23 per cent involve the employment sector. Since the attacks, there have been several cases involving the withdrawal of authorization from security firms. Although still few, these represent a new type of case for Unia, which is also receiving reports involving the wearing of

headscarves in the workplace (mainly affecting access to employment) or harassment at work.

54. In 2017, Unia opened 319 cases relating to religious or philosophical beliefs (14.2 per cent of all cases), representing a decrease of 18.2 per cent over 2016. As in previous years, Islam was the main religion concerned (85 per cent of the cases relating to religious or philosophical beliefs).

55. The EU-MIDIS II survey conducted by the Fundamental Rights Agency shows that, in Belgium over the past five years, 30 per cent of Muslims felt discriminated against because of their ethnicity or migrant origins in the areas of jobseeking, employment, education or housing. Nineteen per cent felt discriminated against because of their religious beliefs and 8 per cent because of their skin colour.

#### C.4.5 *Jurisprudence*

56. The databank of the College of Prosecutors General does not distinguish between actions committed in a specific context of Islamophobia or anti-Semitism, other hate crimes and acts of discrimination. However, a database on the Unia website lists many cases to which filters can be applied to reflect factors such as racism or religious belief.<sup>9</sup>

### C.5 **Wearing of religious symbols**

57. Concerning the wearing of religious symbols at work, the *Achbita* judgment<sup>10</sup> is pivotal. In this case, the European Court of Justice argued that the internal rules of an enterprise prohibiting the visible wearing of any political, philosophical or religious sign in the workplace do not constitute direct discrimination under European Council Directive 2000/78/EC concerning employment equality. Such rules may, however, amount to indirect discrimination if they disadvantage persons belonging to a specific religion.

58. At the request of the Minister for the Civil Service, the steering group on diversity gave an opinion on an official communication concerning the principle of neutrality as applied to vacant posts, in light of the *Achbita* judgment. The opinion has not yet resulted in a ministerial decision.

59. Concerning the wearing of religious symbols in courts and tribunals, in its judgment on *Lachiri v. Belgium*, given on 18 September 2018,<sup>11</sup> the European Court of Human Rights held that excluding Ms. Lachiri from a courtroom where a case was being heard to which she was a civil party, on the sole ground that she was wearing a headscarf to cover her hair for religious reasons, constituted a violation of her right to religious freedom enshrined in article 9 of the European Convention on Human Rights. To ensure the implementation of this judgment, the Minister of Justice wrote to all judges informing them of the Court's jurisprudence.

60. In Belgium there is no legislation banning the wearing of religious symbols in schools, including in higher education and in adult education. Every educational institution must thus decide whether to allow or ban them according to its internal rules.

61. The principles of freedom of religion and opinion are upheld in Belgian schools. However, most schools in the Flemish Community have adopted restrictive measures over the past 15 years. In 2013, the Gemeenschapsonderwijs (GO!) (organizer of government-provided education and one of three education networks in the Flemish Community alongside the subsidized public schools network and the subsidized free schools network) circulated a directive to GO! schools instructing them to incorporate a ban on the wearing of philosophical symbols into their internal regulations. The Council of State does not exclude the possibility of adopting a general measure that would prevail over the measures adopted by individual schools, provided it is intended to resolve a problem at that level and there is concrete justification of its necessity.

### C.6 **Observance of anti-discrimination laws by the police**

62. In all of their actions, police officers must remain within the confines of their legal mandate and comply with the strict conditions imposed by law. The police are governed by the existing legislative framework, including the provisions that protect human rights and

fundamental freedoms; the anti-discrimination laws, which forbid all discrimination based on ethnic origin and stipulate criminal penalties for any police officer found guilty of such discrimination; and the laws on the protection of privacy, which forbid the processing of personal data that reveal a person's racial or ethnic origin.

63. The statutory provisions and code of ethics that govern the police force prohibit arbitrariness in police work and establish impartiality as the basic standard. These fundamental principles also extend to the drafting of official police documents such as reports, the management of police databases and the identity checks that police officers conduct. Such checks may be carried out only under certain clearly defined circumstances and on an objective basis, such as a physical description of a wanted person, whose apparent ethnic origin may be taken into account only if it is a relevant factor justifying the check in question. Ethnic profiling is thus prohibited in Belgium.

64. Throughout their careers, police officers are given either general or specific training on the above-mentioned regulatory, human rights and ethics framework, with a view to preventing abuse. In this respect, the police force is continuing its efforts to increase the frequency and improve the quality of training on fundamental rights, including non-discrimination and respect for diversity. Further details of this training are available in annex 6.

65. Any violation of the legal framework and principles governing the work of the police force renders the perpetrator liable to criminal or disciplinary proceedings, in line with the existing procedures and under the responsibility of the competent authorities. Moreover, any misconduct or inappropriate behaviour, whether or not it has attracted a disciplinary punishment, is also subject to administrative sanction under statutory evaluation procedures which can, for example, directly affect promotion or internal mobility prospects.

66. The police force has established its own internal mechanisms and bodies for monitoring and evaluating performance, but at the external level there are also independent bodies which conduct transparent legal monitoring on a one-off, regular or systematic basis, depending on the situation, either preventively or retrospectively. These are found in all three branches of the State:

- Legislative branch: The Standing Committee for Police Monitoring, known as "Committee P", reports directly and only to Parliament and is thus independent of the police. Its membership and that of its investigation service are laid down in law.
- Executive branch: The Inspectorate General of the Federal and Local Police, whose independence from the police force is guaranteed legally, reports directly to the Ministries of the Interior and Justice. The activities and interventions of the Inspectorate General are monitored by Committee P.
- Judicial branch: There are independent authorities with powers to prosecute criminal offences committed by members of the police force.

67. These controls enable corrective measures to be taken when necessary.

68. Concerning the independence of Committee P and its investigation service, see the detailed explanation provided by Belgium to the United Nations Committee against Torture concerning the follow-up to the Committee's concluding observations on the third periodic report of Belgium, and its reply to a similar recommendation made by the Working Group on the Universal Periodic Review: "Belgium has an effective monitoring body, the Committee P, which is an independent committee under the authority of parliament, and this provides all necessary guarantees of the independence, effectiveness and objectivity of monitoring. The independence, neutrality and impartiality of investigations conducted by the Committee P investigating service, or of the members of that service, have never been called into question".<sup>12</sup>

69. The statistics on racism and discrimination available to Committee P for the period 2014–2017 are contained in annex 7. It should be noted that among the rulings, judgments and orders communicated to Committee P over the period 2014–2017, no conviction was handed down for racist acts by a police officer. Committee P has noted on several occasions

that not all rulings and judgments concerning police officers have been communicated to it, although this a legal requirement.<sup>13</sup> Its overview of the situation is therefore highly relative.

## **C.7 Deportations of foreign nationals**

### *C.7.1 Monitoring of deportations*

70. The monitoring of deportations is the specific responsibility of the Inspectorate General of the Federal and Local Police, which has been designated to oversee forcible returns.<sup>14</sup> This specific task includes inspections as well as the processing of any complaints registered in the context of forced return operations.

71. Other than the agreements relating to the grants received by the Inspectorate General through the European Asylum, Migration and Integration Fund, there are no guidelines and/or standards regarding the number of procedures to be verified. The Royal Decree of 19 June 2012<sup>15</sup> stipulates that the Inspectorate General must monitor deportation procedures within the available human and budgetary resources. The Inspectorate General has not been allocated any specific structural funding for this task.

72. The scope of the activities of Committee P is confined to the general task of investigating the activities and methods of the Inspectorate General.<sup>16</sup>

73. In civil society, federal legislation provides for accredited non-governmental organizations to be granted access to closed facilities to conduct their activities.<sup>17</sup> This also allows them to conduct checks on the deportation process.

### *C.7.2 Lodging complaints*

74. On the basis of article 130 of the Royal Decree of 2 August 2002 determining the arrangements and rules of operation applicable to sites on Belgian territory managed by the Immigration Office where a foreigner is detained, placed at the authorities' disposal or held under article 74/8 (1) of the Act of 15 December 1980 on the entry, temporary or permanent residence and removal of aliens, the Minister of the Interior has established a committee equipped with a permanent secretariat whose only task is to handle individual complaints, including any complaints of racism, from residents of the closed facilities for illegal migrants.

75. In the period 2014–2018, the committee handled 114 individual complaints from undocumented migrants. For more details, see annex 8.

## **Article 4 Condemnation of all racist propaganda and organizations**

76. The Act of 27 June 1921 on non-profit associations, foundations, European political parties and European political foundations already contains legal provisions which meet the Committee's recommendation. Under this law, a tribunal can decide to dissolve non-profit associations, foundations or international non-profit associations whose activities contravene the law or public order. The establishment of non-profit foundations and international non-profit associations is overseen by the Ministry of Justice, which refuses to authorize their establishment if their objectives contravene the law or public order. For de facto organizations, the situation is more complicated. Belgian law contains no provisions banning parties that seek to curtail freedoms. Since political parties have no legal personality, they cannot be dissolved. Proposals have been put forward to revise the Constitution in order to ban freedom-curtailling parties, but to date no such proposals have been adopted. Since 2005, however, it has been possible to reduce public funding for such parties.

## **Article 5**

### **Prohibition of discrimination in all its forms**

#### **A. Persons of foreign origin in the criminal justice system**

77. The Belgian State does not collect data on the ethnicity of persons who pass through the criminal justice system.

#### **B. Persons of foreign origin in the labour market**

78. At the federal level, chapter 9 of the Act of 15 January 2018, which contains various provisions on employment, introduced into the Criminal Code the possibility for labour inspectors to carry out “mystery shopping” in the context of workplace discrimination.

79. Collective labour agreements afford the social partners the opportunity to tackle discrimination and foster the integration of foreigners into the labour market. One example is collective labour agreement No. 95 of 10 October 2008, concluded by the National Labour Council, concerning equal treatment at all stages of the employment relationship. This agreement aims to rid working relations of all discrimination, including that based on race, colour, national extraction or ethnicity. A number of joint committees have also concluded agreements with the aim of combating discrimination and promoting diversity. In parallel, a code of conduct on equal treatment in worker recruitment and selection has been adopted, and agreement No. 38 on worker recruitment and selection has been amended in line with these developments.

80. Some sectors have introduced substantive codes of conduct with which employers are expected to comply, in particular during recruitment. This was done, for example, by the joint committee on temporary work and approved providers of community-based work and services. Other sectors have introduced a general clause into their collective labour agreements recommending that employers avoid discrimination and promote diversity in their enterprises. This has been done by the joint committee for steel industry workers and the joint committee for the cleaning industry, among others.

81. The Federal Administration Selection Bureau makes every effort to ensure that selection tests are free of discriminatory references to origin or culture. It brings in experts to verify that, inter alia, candidates’ origin has no bearing on how their competence is assessed. The Bureau has also held “testing the tests” sessions in which persons of foreign origin and Belgian origin check that tests are neutral with regard to origin and culture. When acquiring or developing new tests, the Bureau requires that they be neutral and offer everyone an equal chance of success. The processing of test results is fully objective and neutral. Most tests are corrected automatically by computer. During the correction of written examinations, the candidate’s name, origin and gender are not visible to the marker.

82. Since February 2013 candidates have had the option of ticking an “Origin” box when completing personal history forms. The aim of this option, and of the associated questionnaire, is to produce an overall analysis of factors such as gender, age and culture. This kind of analysis is used to ensure that tests remain neutral and to monitor the effectiveness of actions on diversity. The measurement of these objective data enables better targeting of actions taken to improve diversity in the federal administration.

83. The Bureau has also held information sessions for organizations working with jobseekers of foreign origin, to inform the latter about work prospects within the administration and encourage them to apply for vacancies. The objective is to lower the threshold of access to selection procedures by dispelling certain prejudices relating to the conditions for participation, such as nationality, bilingualism and qualifications.

84. In 2016, on International Migrants Day, the Bureau launched an information and awareness-raising campaign based on video clips in which persons of foreign origin working for the federal administration related inspiring personal stories. The campaign was

broadcast via the Bureau's website and Facebook and relayed by various associations (Unia, the non-profit association UNION, Actiris).<sup>18</sup>

85. Under a project entitled "Integratiepact – reference and support framework", the Flemish Community and Region are working to encourage mutual respect and action against discrimination and racism by actors in civil society at large. Under "Integratiepact – initiatives", the efforts of social actors in this domain receive financial or technical support.<sup>19</sup> Some projects focus specifically on employment:

- The project SHE DID IT highlights female role models who were originally migrants.
- The project "Blauwdruk voor een productieve, multiculturele werkvloer" (Action plan for a productive and multicultural workplace) aims to develop and implement methods and a campaign for dealing with racism and discrimination in the workplace, by placing emphasis on respect and trust among colleagues.

86. On 28 October 2015, the Flemish parliament adopted a resolution on awareness, prevention and elimination of workplace discrimination against persons of foreign origin.<sup>20</sup> This led to the revision of the action plan to combat work-related discrimination (Actieplan ter bestrijding van de Arbeidsgerelateerde Discriminatie). The new plan focuses on raising awareness through a campaign entitled "Het is gauw gebeurd", self-regulation and strengthened inspections.

87. The "Het is gauw gebeurd" campaign has given greater visibility to the focal points of the Flemish Labour Inspectorate. During preventive inspection tours, "quick scans" are performed to question enterprises on their knowledge and experience of discrimination and their approach to dealing with it. Surveys are also conducted to obtain more information about regulation. The Inspectorate also works with, among others, the labour law inspectorate and Unia to refer complaints which fall outside their respective remits.

88. Self-regulation has been introduced through sectoral agreements and at service-voucher companies. The sectoral agreements are collaboration protocols between sectoral social partners and the Flemish authorities on contemporary issues such as the increasing diversity in the labour market. Sectoral pacts are a powerful tool for implementing a sectoral policy in support of employment policy. To date, sectoral agreements have been concluded with 32 sectors, all of which include commitments and actions on non-discrimination and diversity. Under the sixth State reform, the Flemish Region was granted competence to operate service vouchers. In March 2017, a specific action plan was concluded with the service voucher sector which aims to tackle all forms of discrimination and cover a range of actions, from awareness-raising and prevention to oversight. The action plan also provides for "mystery calls". During 2018, the employer organizations in the service-voucher sector deployed independent experts to conduct an extensive survey of all such enterprises in the Flemish Region.

89. The project "Focus op talent-beleid" (Policy focus on talent) is a policy programme of the Flemish Region which aims to focus the attention of everyone in the labour market on skills and talent as the starting point for recruiting and engaging staff. Again, the aim is to break down prejudice, and thus this policy also contributes indirectly to the fight against discrimination.

90. The "Focus op talent-beleid" project was launched in mid-2016 and has three components:

- Unlocking talent through an approach to mediation which is inclusive, customized and driven by the competencies of the Vlaamse Dienst voor Arbeidsbemiddeling en Beroepsopleiding (Flemish Region Employment Bureau)
- Investment in talent through the "KMO-portfolio", through which small and medium-sized enterprises can obtain advice enabling them to professionalize their promotion and diversity policies. Social welfare organizations and local authorities can request sectoral funding for this purpose

- Breaking down prejudices through a mobilizing strategy in which projects are contributed by various stakeholders, including employer organizations, trade unions and autonomous organizations of disadvantaged groups

91. In 2016, the Flemish Region Employment Bureau launched the "Integratie Door Werk" (Integration through work) programme with the aim of assisting the rapid and stable integration of non-Dutch-speaking jobseekers of foreign origin into the Flemish Region labour market. The action plan developed for this programme has not only served as an ambitious road map offering improved support for non-Dutch-speaking jobseekers; it has also served as an invitation and an appeal for cooperation to all local stakeholders. The success of the programme was such that it has been incorporated into the Bureau's operations.

92. The Bureau promotes the smoothest possible path to employment by matching the skills of non-Dutch-speaking persons of foreign origin as closely as possible to the opportunities available. To do this, it applies four categories:

- Rapid intervention: the Dutch language is clearly not a condition of employment, a contact language is sufficient; technical skills are present, enabling immediate intervention
- Integrated path: Dutch may or may not be a condition; there has been no long-term unemployment; learning capacity is sufficient to complete an accelerated and integrated path
- Combined path: Dutch is often a condition, unemployment is more long-term, but learning capacity is sufficient to combine at least two training modules simultaneously
- Linear path: Dutch is a condition, unemployment is long-term, learning capacity is lower, thus excluding the accelerated paths; this is the longest path

93. At various events and project days, the Bureau informs employers, via their online accounts, intermediaries and other means, of opportunities to hire non-Dutch-speaking persons of foreign origin. The Bureau always suggests on-the-job training with language support as a possible form of recruitment. The existing skills among the target group are highlighted. The Bureau can identify these skills using its accelerated screening techniques (for those with low language level). Good practices are brought to other employers' attention in a targeted manner, through the press, events, communication during events, and other means.

94. In Ghent and Antwerp, an appeal entitled "Vluchtelingen en werk" (Refugees and work) has been launched at the initiative of the European Social Fund (ESF)-Agentschap (ESF Agency Flanders); its specific concern is the accelerated integration of refugees (asylum seekers, persons requesting international protection after a four-month waiting period, recognized refugees and beneficiaries of subsidiary protection) into the labour market. Its projects last 40 months, from 1 September 2016 to 31 December 2019. Since 1 September 2018, the target group has been widened to include newly arrived non-Dutch speakers, mainly because of a lower influx of refugees.

95. Following the Decree of 27 March 2014, the Walloon Region has put in place an integration path for foreigners and persons of foreign origin. One of its main components is social and vocational referral to appropriate services, through projects intended to facilitate access to the existing employment support mechanisms for foreign nationals.

96. The social and vocational aspects are thus incorporated into the integration path. A social and vocational assessment is included in the agreement if needed, at the start of the process.

97. The aim of this social and vocational assessment, lasting at least four hours, is to guide the newly arrived person towards the most suitable vocational entry point. It covers qualifications, skills identification, career background and personal needs, and matches these to the needs of sectors where there are skills shortages. A framework agreement was concluded in 2017 between the Walloon Public Employment and Training Service, the regional integration centres and the Walloon government, in order to ensure linkage

between the integration path supported by the regional integration centres and the vocational and social integration system supported by the Public Employment and Training Service.

98. Partnership agreements are also signed locally between regional integration centres and regional branches of the Public Employment and Training Service in accordance with the particular needs and challenges of the region concerned.

99. In Wallonia, the Walloon government administers its policy on diversity through the Liège Regional Centre for the Integration of Foreign Nationals and Persons of Foreign Origin. As well as producing and updating a guide entitled “Managing diversity in human resources” and operating its own website ([www.diversitewallonie.be](http://www.diversitewallonie.be)), the Regional Centre is working with the University of Liège and the Public Employment and Training Service to raise awareness of diversity in enterprises and organizations, through conferences and seminars.

100. For the period 2014–2017, a “diversity consortium” comprising the Regional Centre, the Public Employment and Training Service and the Department of Higher Commercial Studies at the Management School of Liège University received an annual budget of €250,000 to fund its projects. The project outcomes included:

- The creation of tools and continued support for awareness-raising activities
- Training events
- Assistance for enterprises’ diversity schemes

101. Diversity management is defined as the implementation of a human resources policy that covers all stages of the employment relationship, as part of collective labour agreements.

102. Since 2018, the Regional Centre has not received any subsidy for this work. Only the non-profit associations CEPAG (Centre d’Education Populaire André Genot) and FEC (Formation, Education, Culture) still receive a subsidy. The consortium’s annual budget has thus been €200,000 since 2018.

103. For the period 2014–2017, under the Marshall Plan, an amount of more than €2 million per year was granted as employment promotion assistance to support the following projects:

- Integration of foreign nationals: these projects are intended to strengthen and stabilize associations working to integrate foreign nationals and persons of foreign origin. Support is provided for over 50 non-profit associations
- Integration path for new arrivals: projects developed internally by bodies such as the regional integration centres and the non-profit association CINL (Centre des Immigrés Namur-Luxembourg) and Miroir Vagabond, in addition to the Regional Centre for the Integration of Foreign Nationals and Persons of Foreign Origin
- The regional integration centres are involved in the social integration of new arrivals, in particular through community interpreting to complement the project on the integration path for new arrivals

104. Most projects were renewed for 2018.

105. The Social Cohesion Plan is a regional and cross-cutting mechanism designed to support Walloon municipalities engaged in promoting social cohesion through a local action plan.<sup>21</sup>

106. Social cohesion is understood as a set of processes which help to guarantee individuals or groups of individuals equal opportunities and conditions, equity and effective access to fundamental rights and economic, social and cultural well-being, and which together aim to build solidarity and shared responsibility for the well-being of all.<sup>22</sup>

107. Under the 2014–2019 Social Cohesion Plan, 181 municipalities in Wallonia produced 170 plans, some in conjunction with others.

108. The Plan draws on a total budget of almost €39 million.<sup>23</sup> From the largest cities to the smallest villages, a fair subsidy has been given to each in accordance with its population and its overall indicator of access to fundamental rights.

109. The spheres of greatest activity have been assistance for jobseeking, provision of information and communication for users in relation to housing, and tackling poor health and personal isolation.

110. This ambitious scheme was launched in April 2009 and overhauled in November 2018. As from 1 January 2020, plans developed by local authorities will have to meet all the following criteria: (1) from the individual viewpoint, they must reduce hardship and inequalities by promoting universal access to fundamental rights; (2) on the collective front, they must help to build solidarity and shared responsibility for the well-being of all.

111. On the basis of the indicator of access to fundamental rights and the condition of local facilities, each social cohesion plan must include coordinated actions aimed at promoting access to one or several target areas covering 14 fundamental rights: (1) work, education, training, social integration; (2) housing, energy, water, a clean environment and appropriate living conditions; (3) health; (4) food; (5) cultural, social and family development; (6) civic and democratic engagement, information and communication technologies; and (7) mobility.

112. A call for projects was issued in January 2019 to municipalities making applications under the Social Cohesion Plan for 2020–2025. The deadline for submitting projects was 3 June 2019.

113. In March 2016, the Walloon government decided to step up its social and vocational integration policy in order to provide individuals with the opportunity to enter the labour market more rapidly, in conjunction with the integration path. The following actions were approved:

- Enhancing the reception process by introducing a single access point so as to make paths more expeditious and consistent
- Placing greater emphasis on the validation of migrant populations' skills
- Strengthening the translation and interpreting services
- Enhancing services for new arrivals offered by the organizations involved in social and vocational integration, namely the public social service centres, the Regional Employment Mission, the Centre for Social and Vocational Integration and the Support Structure for Self-generated Employment

114. In 2016, the Walloon government engaged nine experts from organizations in education, training and employment zones. These are local bodies which bring together stakeholders in those three sectors, as well as the Public Employment and Training Service and social partner representatives, to develop specific practical initiatives aimed at promoting the employment of foreign nationals and persons of foreign origin in their local areas.

115. Among the accredited employment agencies in the Walloon Region, measures to deal with discrimination are a major focus, and the industry has taken the following initiatives: informing consultants and affiliated enterprises about anti-discrimination legislation and the promotion of diversity; introducing “cascading” to ensure that frontline consultants report to their direct supervisor when a prospective client makes a discriminatory request; and sectoral monitoring of employment agency performance as part of the process of awarding the sectoral quality seal.

116. In public services, the Public Employment and Training Service is committed to combating all discrimination against individuals or groups and to ensuring fair treatment for all its clients and users. To these ends, the Service has taken the following measures:

- Initial staff training: a module entitled “Equal opportunities and diversity” has been in place since 2014. More than 1,100 staff members in different occupations have completed the module, including referral advisers, business consultants, administrative consultants, retraining unit staff, evaluators and reception staff;

- Continuous staff training: a newsletter entitled “Equality and diversity” is available to Public Employment and Training Service staff and to individuals who wish to subscribe;
- Staff awareness-raising regarding claims and complaints (reporting a discriminatory situation): staff in contact with the public are informed of the best channels to use in ensuring that a person subjected to discrimination is put in contact with the relevant bodies (Unia, Institute for Gender Equality);
- The MODA system (modalities for accommodation/accessibility requests): under this system, non-French speakers are provided with interpretation services to ensure that they have all the information they need in order to prepare to enter the labour market.

117. Finally, on 4 October 2018 the Walloon Region launched its Year of Diversity in the Civil Service. A charter was signed which encourages all Walloon government staff to commit themselves to combating all forms of discrimination. An action plan for 2018–2020 was introduced to implement concrete measures within the administration.

118. In December 2016, the government of the Brussels-Capital Region launched a ten-point action plan against discrimination in the workplace. Beginning as an incentive scheme, the plan then became more binding. Some of the ten planned measures merit further description.

119. The first involves the introduction of mechanisms for monitoring the recruitment practices of enterprises and penalizing those that practise discrimination. Regional labour inspectors have used anonymous *curricula vitae* and situation testing to see whether persons of foreign origin are placed at a disadvantage compared with Belgian counterparts who have similar qualifications and skills.

120. The anti-discrimination office of Actiris (the Brussels agency for employment) has been strengthened. This is the first point of contact for jobseekers who have suffered discrimination. Its existence and activities have been made known to jobseekers through an information campaign.

121. Taking a more positive approach, the Brussels-Capital Region is encouraging enterprises to introduce diversity plans into their human resources policies. This is being done through an incentive system which supports enterprises that commit to this approach.

122. The institutions dealing with diversity in the Brussels Region have been streamlined, and specific monitoring has been put in place to measure changes in employment diversity in Brussels.

123. Several measures and actions have been taken to encourage, in general and specific terms, the recruitment of persons of foreign origin to the Brussels regional civil service.

124. Public bodies in the Brussels-Capital Region are required to implement biennial diversity plans, which must include the main objectives set by the authorities and those of the organization itself. Over the period 2012–2015, the Brussels government set as its prime diversity objective the hiring and advancement of persons of foreign origin in the regional civil service. This required the public bodies of the Brussels-Capital Region to include actions for achieving that objective in their own diversity plans. The diversity plans continue to feature actions under this heading even though this objective is not actually one of the five set by the government for the period 2016–2020. A further priority objective is to contribute to “increasing the representativeness of the civil service as a reflection of the population of Brussels”.

125. A significant diversity budget has been made available since 2015 in the form of subsidies for regional public institutions in which at least 10 per cent of contractual hires in a given year are jobseekers from Brussels neighbourhoods where the unemployment rate equals or exceeds the regional average. This measure underwrote the recruitment of 416 persons in 2015, 447 in 2016 and 445 in 2017.

126. The “next-step access card” is a regional system that enables jobseekers without a secondary education diploma obtained or recognized in Belgium, but who possess equivalent skills, to apply for certain posts at grade C in the regional administrations.

127. This system was begun in 2015 and extended in 2017, and a new agreement has been concluded with the Federal Administration Selection Bureau for the preparation of 400 candidates. Several additional organizations have been contacted to promote the grade C access card: municipalities, public social service centres, the Flemish Community Commission and the French Community Commission.

128. Participation in employment forums has been boosted, especially those intended for groups targeted by the diversity policy; these comprise employment fairs for persons of foreign origin and activities for jobseekers at the Cité des métiers in Brussels.

129. The French Community Commission offers new arrivals the possibility to take free French language courses with approved providers under a non-mandatory reception programme. The courses comprise modules leading to level A2 under the Common European Framework of Reference for Languages. They are held during the day, either for 20 hours per week or for 7 hours per week on a staggered basis. An attendance rate of 75 per cent is required for these courses, which are only for persons aged over 18.

130. Bruxelles Formation is the public body responsible for offering vocational training to French-speaking jobseekers and workers from Brussels and the Brussels-Capital Region. Together with its partner social and vocational integration agencies, Bruxelles Formation offers training activities in many fields, including literacy and languages (French, Flemish). Most of the training is intended for jobseekers at least 18 years of age and domiciled in the Brussels-Capital Region.

131. The training offered by the social and vocational integration agencies is mainly for jobseekers without a higher secondary education certificate or the equivalent. Literacy courses are offered to those without the initial education certificate, and basic training is provided to those without the lower secondary qualification. Such training is carried out under the guidance of Bruxelles Formation.

132. The Training Plan 2020 approved by Bruxelles Formation in December 2016 states that persons of foreign origin or nationality, including new arrivals, should be given particular attention.

133. Bruxelles Formation only uses the criterion of nationality, not that of origin, in its trainee database. Given the particular sociological characteristics of Brussels, no Bruxelles Formation training activity is specific to a nationality or origin. This does not prevent the organization from paying attention to the discrimination issue and including it in its personnel training and trainee support strategy (Plan Diversité), as well as its communication strategy, which reflects the diversity of its trainees.

134. Bruxelles Formation has high proportions of persons of non-European nationality in its courses on French as a foreign language (54.3 per cent), French (54.2 per cent) and literacy (63.3 per cent), in social and vocational integration agencies (all training combined) (43.3 per cent), in pre-training (37 per cent) and in basic training (42 per cent). Bf.tremplin, a training centre working with vulnerable communities, deals with a much smaller proportion of non-European nationalities (26.3 per cent of the total), but the number of its trainees from outside the European Union has risen significantly (+19.2 per cent compared with 2016).

135. In the German-speaking Community the Decree of 11 December 2017 established an integration path for persons of foreign nationality or origin, who have the opportunity to take language courses up to level A2 under the Common European Framework. New arrivals are presented with several options: literacy, intensive courses, low-threshold courses or courses for women only. The required attendance level is 80 per cent and the courses are for persons aged over 18 only. A major component of the integration path is social and vocational guidance towards appropriate mechanisms. After the integration path, the authorities have decided to subsidize more language courses up to level B1 and to devote a whole project under its regional development framework to the recognition and validation of non-formal competencies.

136. The German-speaking Community also has an anti-discrimination office operated by Unia.

### **B.1 Special measures**

137. For more information, see section C.3 concerning article 2.

### **B.2 Investigations into racial discrimination at work and remedies for victims**

138. In 2010, the General Directorate for Oversight of Labour Law, which is part of the Federal Public Service for Employment, together with Unia, signed a collaboration protocol on information exchange in the handling of complaints, provision of mutual assistance and the introduction of follow-up and data exchange on matters of discrimination.

139. The Institute for Gender Equality, Unia and the General Directorate for Oversight of Labour Law then developed an anti-discrimination methodology in which users are reminded of the existing legislation, a distinction is made between criminal offences and civil procedures, and practical procedures for handling complaints are set out. It also provides checklists and templates for use with complainants, employers, witnesses and others.

140. The General Directorate has since appointed an anti-discrimination specialist to each regional branch, and several training courses have been held, the most recent in 2017. Meetings to exchange views have been held among officials of the General Directorate, Unia and the Institute for Gender Equality.

141. General Directorate inspectors have received training in special investigation techniques, as stipulated in the Act of 15 January 2018, which adds to the Code of Labour Offences “special powers in matters of discrimination”, in particular the so-called mystery calls. Labour inspectors can now pose as clients or job applicants to investigate and detect violations of the anti-discrimination laws.

142. Under this new legislation, a circular from the College of Prosecutors General was adopted which regulates inspectors and offers them the necessary legal protection when they use these particular techniques (e.g. false curricula vitae and false identities).

143. In the Brussels-Capital Region, a decree of 16 November 2017 authorizes regional labour inspectors to use situational tests and “mystery shopping” for anti-discrimination purposes. The purpose of these new tools is to establish proof of discrimination in recruitment, where reports have been made to Unia or the Institute for Gender Equality and sufficient evidence has been established. This legislation entered into force on 1 January 2018. It was developed in close collaboration with Unia and the Institute, mainly through inspector training provided by these institutions competent in matters of anti-discrimination.

## **C. Access to decent housing by persons of foreign origin**

144. On 20 July 2018, an action plan on anti-discrimination policy in the private rental market (Actieplan Vlaams antidiscriminatiebeleid op de private huurmarkt) was submitted to the Flemish government. The plan’s objectives are to encourage self-regulation through an approach geared to awareness-raising and support, and to strengthen the existing control mechanisms. The plan is currently ongoing.

145. Since 2016, a series of new measures have been taken in the area of housing for persons in vulnerable situations. These are described below.

146. The Flemish Housing Code was amended in 2017. There are no longer any language requirements governing access to social housing. However, social housing tenants are given one year to demonstrate that they have acquired competence in Dutch. If they do not reach the required level and there are no grounds for exception or an extension of the deadline, they are liable to an administrative fine. Nevertheless, their lease cannot be cancelled.

147. The social rental system is intended only for households with limited income. Housing is offered at a price based on the tenant's earnings profile.<sup>24</sup> Additional funding is released every year.

148. Local authorities can always introduce special rules to take into account the housing needs of particular target groups. This enables a municipality to give priority to one or several groups needing social housing. These rules are developed in collaboration with those with an interest in housing and well-being and must be approved by the Flemish authorities.

149. The number of units offered by social housing companies has increased annually, reaching 154,584 by the end of 2017.

150. With the authorization and financial support of the social housing agencies, additional special housing capacity for the most vulnerable target groups has been generated,<sup>25</sup> amounting to some 10,000 additional rentals. The number of rented housing units offered by social housing agencies also increases annually. As well as the rented housing, properties are available to purchase on social terms.<sup>26</sup>

151. Loans at social rates and renovation subsidies are also available,<sup>27</sup> as well as rental subsidies and allowances, which are granted by the Flemish Region.<sup>28</sup>

152. A mixed platform of actors with an interest in housing and well-being in the Flemish Region has developed an overall approach for preventing and tackling homelessness. This action plan on homelessness was approved by the Flemish government on 9 December 2016 and proposes a number of objectives and actions for completion by the end of 2019. The actions and policy measures concern both housing and well-being. The actions fall under four strategic objectives: preventing expulsion, preventing homelessness among young adults, an approach to deal with chronic homelessness, and the development of an integrated policy on homelessness. The action plan is coordinated by the Flemish minister responsible for well-being.

153. The system for integrating persons of foreign nationality in the Walloon Region includes social and legal centres to assist and guide their efforts, notably in their search for housing. The integration process also includes assistance with administrative procedures, information on rights and responsibilities and training in citizenship, all of which address housing issues.

154. Without prejudice to the jurisdiction of the Walloon Region in housing matters, there are several social housing agencies in the German-speaking Community.

155. At the request of the government of the Brussels-Capital Region, the University of Ghent and the Vrije Universiteit Brussel conducted a study known as DISCRIMIBRUX in 2017. Their aim was to identify and measure discriminatory attitudes in the rental of private residential accommodation in the Brussels-Capital Region. The study employed a range of tools including correspondence tests, situational testing and mystery shopping. The latter consists in passing oneself off as a landlord at housing agencies and insisting on a discriminatory condition, such as no single women or no foreigners. It transpired that almost one third of agencies contacted accepted this demand, which is completely illegal.

156. The study was not specifically concerned with discrimination against persons of foreign origin; it also focused on other criteria such as gender, disability, membership of a sexual or affective minority, origin and social situation. This comprehensive approach proved highly relevant, since it emerged that the groups most often discriminated against were those that combined several of these criteria, for example women of North African or Eastern European origin.

157. Equipped with this assessment of the situation, the government of the Brussels-Capital Region took a number of actions: awareness-raising for public authorities and accommodation agencies, training for estate agents in anti-discrimination measures, and a new anti-discrimination booklet in 2019.

158. A decree intended to strengthen measures against discrimination in access to housing was adopted on 25 October 2018. It complements the ordinances of 17 July 2003

by enabling the inspectors of the Brussels Housing Department to use tests designed to reveal discriminatory practices and to impose appropriate sanctions.

159. In the realm of housing policy, in 2016–2017 the Brussels-Capital Region conducted extensive testing for discriminatory rental practices in its territory, focusing on estate agencies. This comprised 10,978 correspondence tests via Immoweb, 1,542 situational tests by telephone and 648 mystery calls. The two categories most affected by discrimination were ethnic origin and source of income.<sup>29</sup>

160. To evaluate the impact of the action plan on discrimination, a second battery of tests was conducted at the end of 2018. This involved 520 mystery calls, of which 283 concerned discrimination based on ethnic origin and 237 discrimination based on income source. This second wave of tests revealed that discrimination based on ethnic origin had decreased considerably, from 43 per cent to 25 per cent, compared with 2016–2017, while that based on income source had decreased slightly, from 37 per cent to 34 per cent.

#### **D. Access to health-care services by persons residing illegally in Belgium**

161. Article 57 (2) of the Organic Act of 8 July 1976 on Public Social Service Centres<sup>30</sup> provides that persons who reside illegally in Belgium have the right to obtain urgent medical assistance. This means medical assistance only, in the form of preventive or curative care, which the public social service centres provide on the basis of a social enquiry. The centres must assess the person's needs as for any other claimant.

162. Unaccompanied foreign minors can receive health benefits through the compulsory health-care insurance scheme, subject to certain conditions. A member who is an unaccompanied foreign minor can also receive an enhanced health-care insurance payment.

163. Legal residence is not required in a case of occupational accident or illness.

164. In the Walloon Region and the German-speaking Community, the social assistance centres and integration path also address health issues, but not specifically for persons residing illegally in Belgium.

165. In general, the subsidies provided by French Community Commission services cover all population groups, including persons residing illegally in Belgium. Some services are more specialized, such as the Ulysse mental health service, which has a project entitled "Lunchbox" aimed at maintaining and improving parent-child relations among those who reside illegally in Belgium. Also worth mentioning is the non-profit association "Interprétariat et Traduction", which trains interpreters to assist with health-related formalities in the various departments.

166. The Common Community Commission subsidizes various initiatives aimed at facilitating individuals' access to health care, regardless of administrative status. Such persons include those residing illegally in Belgium, who are assisted either directly or via the mechanisms described above in connection with article 57 (2) of the Organic Act of 8 July 1976 on Public Social Service Centres. This is offered through the Athena centre (a reception centre offering general medical services), the medical services operating under the national winter action plan, and other initiatives.

#### **E. Access to social services by migrants from European Union countries**

167. Directive 2004/38/EC of the European Parliament and of the Council of 29 April 2004, on the right of citizens of the Union and their family members to move and reside freely within the territory of the member States, provides that a host member State should be free to decide whether it will grant social assistance during the first three months of residence, or for a longer period in the case of jobseekers, to Union citizens other than those who are workers or self-employed persons or who retain that status or their family members, or maintenance assistance for studies, including vocational training, prior to acquisition of the right of permanent residence, to those same persons.

168. The possibility of excluding a Union citizen from entitlement to social assistance under certain circumstances is explicitly provided for in article 24 of the Directive.

169. The Belgian legislature has used this discretion<sup>31</sup> to insert an article 57 *quinquies* into the Organic Act of 8 July 1976 on Public Social Service Centres. Under this article, a Union citizen and family members who accompany or join him or her cannot claim the right to receive social assistance during the first three months of residence on Belgian territory.

170. The Constitutional Court has delivered judgment No. 95/2014 of 30 June 2014, which partly annuls the interpretation in article 57 *quinquies* of the Organic Act of 8 July 1976 on Public Social Service Centres. The Constitutional Court considered that the article in question should be interpreted as follows:

- Persons who fall within the scope of this article may not be excluded from entitlement to urgent medical assistance.
- Citizens of the Union who reside on Belgian territory as workers or self-employed persons may not be excluded temporarily from entitlement to social assistance.

171. For the Communities, see paragraphs 45 and 47.

172. The Common Community Commission is legally required to formulate a plan to tackle poverty, as one of the five sections of the report on the poverty situation, whose content is stipulated in the ordinance concerning the preparation of a report on the poverty situation in the Brussels-Capital Region. Over the parliamentary term 2014–2019, this plan took the form of the Brussels Programme of Action to Combat Poverty 2014–2019, whose article 2.3 provides for enhancement of access to primary care for the most disadvantaged groups. Under this plan, a project funded by the European Regional Development Fund led to the creation of two integrated health and social centres in neighbourhoods with “low-threshold” populations, operated by Médecins du Monde. The project embraces a cross-disciplinary approach under which six associations offer a full range of social and health care (family planning, medical centre, etc.) funded by different ministries. One centre houses the existing public services (social, mental health and physical health sectors) under a common infrastructure, while the other is a new-style centre which brings in practitioners from those three sectors under a comprehensive approach which treats health issues and provides all other necessary support with a view to gradually overcoming each patient’s social problems.

173. A further action consists of a general clinic offering consultations combined with social support and an emergency pharmacy. The project was developed jointly by the FAMGB general practitioner group and Médecins du Monde. A main aim of the clinic is to provide an entry point to general medicine for patients who do not know the Belgian medical system well, have not yet found their own doctor or are awaiting acceptance. It also collects and analyses data on the clinic’s patients in order to understand why they do not visit general practitioners in a traditional setting and to devise appropriate solutions.

174. For the period 2016–2020, under its “intercultural citizenship” priority, the Social Cohesion department of the French Community Commission is funding socio-legal centres and courses on citizenship. The centres are intended to inform migrants on issues such as application for nationality, residence permits, qualification equivalence and other matters relating to migrant reception and integration in general. During the citizenship courses, the instructors focus on housing, health, social security, the labour market and education.

175. The German-speaking Community is also developing its own plan to tackle poverty. Nationals of European Union member States may also join an integration path. The lead centre for migration and migrant integration provides a legal advice service for migrants on matters such as access to nationality and residence permits.

## F. Acquisition of Belgian nationality

176. The Belgian Nationality Code has been amended several times in the past 25 years. The Act of 4 December 2012 amending the Code, intended to make the acquisition of

Belgian nationality neutral from the immigration standpoint, entered into force on 1 January 2013, thus initiating one of the most important reforms affecting Belgian nationality. This Act was recently amended by the Act of 18 June 2018 containing various provisions on civil law and provisions to promote alternative forms of dispute settlement, in force since 12 July 2018.

177. The Act of 4 December 2012 stipulates two procedures by which foreigners aged over 18 years may acquire Belgian nationality, both of which it has radically overhauled:

- Acquisition by declaration is the general right enabling acquisition of Belgian nationality. Article 12 bis (1) of the Belgian Nationality Code makes provision for five situations reflecting the legislature's clear intention to ensure that nationality is acquired after completion of an integration process. The foreigner is required to have resided lawfully in Belgium for several years and to meet certain linguistic (knowledge of one of the three national languages), social and economic conditions. Certain categories of foreigner are exempt.
- The acquisition of Belgian nationality by naturalization is covered in articles 18 to 21 of the Code. Naturalization is a legislative act, done at the discretion of the Chamber of Representatives to benefit a foreigner who has demonstrated exceptional qualities or who has been officially stateless for at least two years. Naturalization is thus a favour granted by Parliament.

178. Although in 2018 the legislature made corrections to the existing reform law, namely the Act of 4 December 2012, this did not affect the main thrust of the Act. There have thus been no fundamental changes made to the conditions governing access to Belgian nationality.

## **G. Family reunification**

179. To request family reunification, a foreigner must invoke articles 10 or 10 bis of the Act of 15 December 1980 on the entry, temporary or permanent residence and removal of aliens (Aliens Act), if the person is a national of a third country, or articles 40 bis or 47/1 of the Act, if the person is a European Union citizen.

180. Foreigners who are naturalized and have Belgian nationality must invoke articles 40 bis or 47/1 of the Act of 15 December 1980 (if they have exercised their right to free movement) or article 40 ter of the Aliens Act (if they have not exercised their right to free movement) in order to request family reunification.

181. There is no discrimination regarding origin or ethnicity.

## **H. Ratification of the 1961 Convention on the Reduction of Statelessness**

182. Belgium acceded to the 1961 Convention on 1 July 2014 (Act of 10 June 2014 approving the United Nations Convention on the Reduction of Statelessness, done at New York on 30 August 1961).

183. The courts of first instance have competence in matters concerning statelessness.

## **I. Roma and Travellers**

### **I.1 Implementation of the National Roma Integration Strategy**

184. In February 2012, Belgium submitted its National Roma Integration Strategy to the European Commission. The Strategy is the product of a partnership among the federated entities, the federal State and representatives of civil society. Each authority developed measures according to its respective powers.

185. In May 2016, the national focal point for Roma established a Belgian platform for Roma with support from the European Commission. The platform is intended to initiate dialogue among all stakeholders and Roma communities in Belgium. The dialogue takes

place in the framework of the crucial policy areas that support Roma socioeconomic integration. Emphasis is thus placed on measures to tackle discrimination in matters of employment, education, housing and health care. Anti-discrimination measures constitute the common thread in the whole consultation process.

186. The steering group for the national Roma platform includes representatives of the State authorities, the communities and regions, local administrations and Unia. The platform has held four thematic meetings focusing on the main pillars of Roma integration (health, employment, education and housing), and completed its pilot year (2016/2017) with a final day designed to produce recommendations for political decision-makers as a contribution to a planned evaluation of the national strategy on Roma integration (governmental agreement of 9 October 2014).

## **I.2 Integration of Roma**

187. In Brussels, Antwerp, Ghent and Saint-Nicolas, neighbourhood stewards have been appointed in districts with large Roma populations, to provide a link between them, city departments and the social services.

188. The neighbourhood stewards enjoy the trust of the target group, providing information, acting as mediators, clarifying the message and referring them to services. They provide these services with contextual information on the Roma to help them become more accessible and receptive to the population's needs. However, the mediators do not take on key tasks for other services.

189. Since 2012, the Flemish government has allocated €800,000 per year for this scheme. The objective is for the expertise gained from developing the methodology to become embedded in projects by 2020. The cities of Antwerp, Ghent and Saint-Nicolas and the Flemish Community Commission were invited to develop a phased plan for achieving this aim.

190. In the Walloon Region and the German-speaking Community, as persons of foreign nationality or origin, Roma benefit from the measures taken under the relevant Walloon integration policy, including the integration path, in the same way as other migrants (same treatment for employment, education, etc.).

191. In 2018, the Walloon Region also granted the Walloon Region Centre for Mediation with Travellers and Roma the amount of €89,580 for the Integroms project, which provides assistance and support to homeless Roma families.

192. Since 2004, the Centre has been approached by associations and services including regional integration centres, services of the Public Employment and Training Service, public social service centres, schools, asylum-seeker centres and municipal administrations, for advice on matters raised by Roma groups. The latter are encountering more and more obstacles on their path to social, vocational, cultural, educational and civic integration, which are both cause and result of the widespread discrimination and stigmatization that pose challenges for the associations and services charged with supporting them socially, administratively and vocationally.

193. The project is assessed annually by a government-appointed support committee whose members include a Cabinet representative and an association representative. The centre produces an annual report on its activities.

194. Since 2016, the Brussels-Centre Region has subsidized the Roma integration activities of municipalities and the regional public social service centres. These activities are very diverse: housing assistance, children's schooling, help with regularization, intercultural understanding, family follow-up, and others. The overall budget for these subsidies is some €600,000 per year.

### *1.2.1 Employment*

195. With support from ESF Vlaanderen (European and Flemish co-funding), four projects are under way in Antwerp, Ghent and Brussels for the period 2018–2019. These

focus specifically on support for the efforts of Roma who are seeking employment or training, paying particular attention to any preconditions.

196. ESF Vlaanderen also backs appeals for projects. They are not intended for this target group specifically, but still affect very many Roma, as shown in the appeal concerning support for socially vulnerable groups, through the projects at Mortsel and Genk.

197. Since 2015, the Brussels-Capital Region has allocated €920,000 annually to its 19 public social service centres in the form of social assistance for vulnerable communities (migrants, homeless persons, Roma and Travellers).

198. Since 2016, an additional annual amount of €500,000 has been specially earmarked to help Roma via an appeal for public social service centre projects in the four major areas of housing, education, job placement and health care.

199. These policies are managed by the specialized non-profit associations Foyer and CIRÉ.

### *1.2.2 Education: specialized support and/or positive measures for Roma children in education*

200. In the Flemish Community, several measures and actions have been taken for the benefit of all pupils, but special attention is paid to vulnerable groups, in particular under the policy on equal opportunity in education, the policy on younger children's attendance, the mobilization of measures to prevent premature school leaving, the action plan on school absenteeism and the policy on pupil guidance.

201. A circular entitled "Controle van de leerlingen in het gewoon basisonderwijs" ("Assessment of pupils in regular primary education") explains how schools can demonstrate that pupils from certain target groups, such as Roma and Travellers, are enrolled with them and thus eligible for additional funding.

202. Through its policy on equal opportunities in education, the Flemish Community aims to provide all children with the best possible opportunities for learning and development. The policy has three main elements: right to enrolment, legal protection, and support for schools. All pupils are entitled to enrol in the school of their choice. The same applies to newly arrived non-Dutch speakers and to pupils who have been granted access to special education. The authority aims to protect rights through local cooperation platforms and the establishment of the Commissie inzake Leerlingenrechten (Commission for Pupils' Rights). The local cooperation platforms give concrete effect to equal education opportunities, and the Commissie inzake Leerlingenrechten looks after pupils' entitlements. A school obtains additional mentoring and operating resources on the basis of the number of its pupils who meet certain socioeconomic indicators.

203. In the French Community, teachers and school leaders can turn to support services for help in managing individual and family problems preventing the successful integration of Roma children at school. These support services are either dependent on the French Community (school mediation, mobile teams, school attendance services), or come from outside (specialized non-profit associations).

204. In the Brussels-Capital Region, special support is provided through the public social service centres or the non-profit association Foyer.

205. The French Community Commission carries out follow-up and assistance through a social worker and specialized associations.

### *1.2.3 Health*

206. Since Belgium has no health-care data disaggregated by ethnicity, it has no figures on which to base a judgment on Roma access to health care. A large number of Belgian hospitals offer an intercultural service to help minimize the impact of language and cultural barriers on the accessibility and quality of the care provided to migrants and ethnic minorities, including Roma. This hospital mediation takes place both on site and remotely by videoconference. Around 20 intercultural mediators out of a total of 100 are regularly requested for Roma patients from Romania, Bulgaria and other Balkan countries. They also operate at neighbourhood health centres and reception centres for asylum seekers (remotely

only). The mediators working with Roma have participated in the ROMED programme and in the Equi-Health programme of the International Organization for Migration.

207. As well as the intercultural mediators funded by the Federal Public Service for Public Health, some regions, for example Brussels and Namur, have mediation services exclusively for Roma, with some also offering health care.

208. The national Roma platform addresses various issues, including the need to combat discrimination in health care, the worrying health situation in the Roma community, problems in accessing care, and successful practices. The Roma population's access to primary health care has also been the particular subject of a round-table discussion.

209. In 2018, the national Roma platform organized a working group on the gender dimension, which discussed matters such as mediators in hospitals, mental health care, sexuality and obstacles to health care. The gender dimension of Roma integration requires more attention. It seems that this aspect is still unexplored in many field-based organizations and in institutions. The platform therefore intends to raise awareness through inclusive dialogue, and has held critical discussions on "the gender dimension in Roma integration". A recurrent item on the agenda is the presentation of existing good practices in this field.

210. Since 1 April 2015, a mobile vaccination team has travelled the Flemish Community to improve awareness among target groups which do not appreciate the full importance of vaccination and to offer them free vaccinations. The emphasis is on children, but other groups can use the team's services.

211. Official bodies such as Kind en Gezin and the Centra voor Leerlingenbegeleiding (pupil guidance centres) reach very many children, but some groups fall through the net. Roma form potential target groups, but any community without access to health care is included.

212. As a preventive medicine service, the Health Department of the Joint Board Services of the Common Community Commission acts as coordinator to ensure that the bodies concerned are involved when needed. A working group met on 12 December 2017 at the initiative of the Health Service to identify ways of dealing with sanitation and health issues affecting some homeless Roma families in winter in Anderlecht. The various stakeholders, including ONE, K&G, Samusocial, MDM, and the non-profit association Foyer, took coordinated action and shared information.

### **I.3 Housing for Roma - sites for Travellers**

213. The Flemish action plan for migrants (Roma) 2012–2015<sup>32</sup> aimed to step up the monitoring of territories and regions with a large migrant population (Roma) through housing inspections conducted as part of the measures being taken against slumlords.

214. This item remained a policy objective until 2018. During the period 2011–2018, the fact that a dwelling was occupied by Roma led to an on-site investigation in a dozen cases. This represented 0.21 per cent of all the inspections carried out (5,733), but does not mean that only 12 of the inspected dwellings were inhabited by Roma. Investigations can also be conducted at dwellings inhabited by Roma on the basis of other priorities, but those data are not retained, since Roma may be of different nationalities.

215. Since these numbers are low and it is never the identity of the inhabitants, but serious housing defects, that determine whether an on-site inspection is needed, Roma are no longer regarded as a separate priority from 2019 onward. Naturally, where the issue is one of shoddy housing, buildings where Roma live will continue to attract inspections.

216. During the period 2016–2018, the Flemish Region granted the following subsidies for transit sites:

- €195,000 for a transit site in Lille;
- €1,804,140.17 to develop the above-mentioned site;
- €1,243,933.70 to develop a transit site at Beersel (Huizingen).

It should also be mentioned that the 18-place transit site at Antwerp (Herbouvillekaai at Hoboken) was closed in 2016. Resources have also been earmarked for residential caravan sites. The total outlay for the acquisition, development, extension and renovation of transit sites has increased significantly as from 2017 (2016: €2,251,000; 2017: €5,551,000; 2018: €4,309,000; 2019: €4,309,000).

217. In the Walloon Region, in 2018, 11 local authorities undertook to organize temporary visits by Travellers to their territories, mostly on dedicated sites. The supply of reception sites is nevertheless insufficient to meet demand. The Walloon government is preparing a draft decree on the expansion of the reception facilities available to Travellers. Currently, a local authority wishing to develop a reception site for Travellers can contact the Walloon Region, which grants subsidies for this purpose.

218. Since mid-2018 there has been no publicly run Traveller reception site on the territory of the Brussels-Capital Region.

#### **I.4 Recognition of caravans as housing**

219. In the Flemish Region, a caravan is recognized as a type of housing under the Housing Code. Article 2 (1) (33) defines a caravan as a flexible, mobile dwelling intended for permanent and non-recreational habitation. Article 4 (1) (4c) provides that the housing policy of the Flemish Region must establish the necessary conditions to fulfil the right to decent housing by developing measures to improve the housing conditions of those living in caravans.

220. A preliminary study on the feasibility, legal consequences and requirements of a Traveller registration system has been under way since March 2019. The aims of such a registration system are manifold. For those who manage local and provincial sites, the system enables better site coordination (reservations, avoidance of overbooking, settlement of payments, etc.) and provides the Flemish Region with updated and anonymous information on Travellers in all relevant policy areas, such as education (how many children are travelling?) and, for the Flanders Housing Agency, answers to questions such as what the occupation rate for these sites has been and whether there is a need for additional sites.

221. In the Walloon Region, a draft decree to introduce a definition of a portable dwelling is under consideration. At this stage, such a definition would constitute a somewhat symbolic recognition that is without practical implications and in no way impinges on other regulations, such as those on urban planning and/or inclusion in population registers. The authorities' intention at present is to define minimum hygiene criteria specific to portable dwellings.

### **J. Asylum seekers and non-custodial measures**

222. The detention of persons requesting international protection and foreigners who are in the country illegally is governed by law, in compliance with all the necessary international human rights standards.<sup>33</sup> The law provides for detention periods of limited duration.

223. The Aliens Act states explicitly that no foreigner may be held in detention for the sole reason that he or she is seeking international protection. Detention during the processing of a request for international protection is possible only in the following cases:

- Detention during a Dublin investigation to determine the responsible member State, with a view to the person's transfer to the responsible member State, where there is a non-negligible risk of flight<sup>34</sup>
- Detention at the border pending authorization for entry or refoulement from the territory, where the foreigner fails to meet the entry conditions and submits a request for international protection to the border control authorities<sup>35</sup>

- Detention in the territory, for one of the following four reasons: (1) to determine or verify the person's nationality; (2) where there is a risk of flight; (3) if, during detention prior to forced removal, an application has been submitted for the sole purpose of preventing enforcement of the return order; (4) when protection of public order or national security so requires<sup>36</sup>

224. A detention measure may be imposed on an international protection applicant only if deemed necessary after an individual assessment, and if no other less coercive measure can be applied effectively. The only less coercive measure currently stipulated by law is assignment of a mandatory place of residence or placement under house arrest.

225. Concerning detention at the border, if a foreigner does not fulfil the entry conditions, the Schengen Borders Code (article 14 read in conjunction with article 6) requires that the person be refused access to the territory of the European Union and detained pending refoulement. However, from the moment that a foreigner failing to meet the entry conditions submits an application for international protection at the border, Directive 2013/32/EU (Asylum Procedures Directive) and Directive 2013/33/EU (Reception Conditions Directive) apply.

226. The Reception Conditions Directive provides for the temporary detention of an international protection applicant at the border pending a decision on whether to grant or refuse entry to the Kingdom. The Asylum Procedures Directive sets out a specific procedure for detaining international protection applicants temporarily at the border. If the authority responsible for the determination fails to decide on the application for international protection within four weeks, the applicant must be granted access.<sup>37</sup>

227. When an international protection applicant is detained at the border, an individual assessment must be carried out in order to maintain effective border control. In principle, border control only becomes effective if a temporary custodial measure is imposed pending authorization to enter or refoulement from the territory. The automatic removal of a detention measure in response to the mere submission of an application for international protection at the border would render border controls entirely ineffective.

228. In principle, it is not possible to apply other less coercive measures effectively to international protection applicants who are held at the border, since such measures de facto imply entry to the Kingdom. If, on the basis of an individual assessment, it is found that the applicant has special procedural requirements that are incompatible with the examination of an application for international protection conducted under border control procedures, the Commissioner General for Refugees and Stateless Persons decides on a further assessment and the foreigner is permitted to enter the Kingdom. If the Commissioner General has not ruled on the application after four weeks, the applicant will be permitted to enter the Kingdom and the application for international protection will be processed there. If a family with young children submits an application for international protection at the border, it is placed in accommodation as a less coercive measure.<sup>38</sup> Accommodation of this kind is located at specific sites near the border and thus, from a legal standpoint, such families are not considered to have entered the Kingdom.

229. Since October 2008, accommodation has been made available to families that are within the territory illegally.<sup>39</sup> The families are relatively free to come and go. Currently there are 28 accommodation units in use, spread over five sites. They comprise "community housing", consisting of houses or apartments located in the centre of their municipality so that they are indistinguishable from the other dwellings in the street. Community housing is intended for use by families with children awaiting either access to the territory, permission to stay, reapplication, refoulement, voluntary return or deportation. In principle, each dwelling is occupied by one family so as to ensure optimum confidentiality.

## **K. Dublin III Regulation**

230. The Dublin III Regulation has been partly integrated into Belgian legislation by the Act of 21 November 2017 amending the Aliens Act and amending the Act of 12 January 2007 on the reception of asylum seekers and certain other categories of alien:

- Article 1 (2) of the Aliens Act lists 11 objective criteria for assessing/determining risk of flight
- Article 51/5 of the Aliens Act aligns the grounds for detention with the Dublin III Regulation. If, in light of an individual assessment, there exists a non-negligible risk of flight, and provided the detention is proportionate and no other less coercive measure can be applied effectively, an alien may be detained:
  - for the period needed to determine the State responsible for examining the application for international protection, the maximum detention period being six weeks. If a request to take charge or take back is not sent to the responsible member State within the deadline set by the Dublin III Regulation, the alien can no longer be held on this basis.
  - for the period needed to effect a transfer to the responsible State, the maximum detention period being six weeks. However, this period is officially interrupted if an appeal lodged against the transfer order has suspensive effect. If the transfer is not carried out within this detention period, the alien can no longer be held on this basis.

## **L. Trafficking in human beings**

### **L.1 National Action Plan to Combat Trafficking and Smuggling in Human Beings**

231. Belgium is currently implementing its third national action plan to combat trafficking in human beings. This action plan for 2015–2019 runs until the end of the legislative session. It was discussed and adopted by the Interdepartmental Unit for Coordinating Measures to Combat Trafficking in Human Beings, which brings together all the relevant stakeholders (ministry representatives, administrations, victim reception centres, etc.).

232. In 2018 an addendum to the action plan was adopted which focuses specifically on the exploitation of minors. It was discussed with the federated governments and sets out actions to be taken at the federal level.

233. The federated entities also develop their own complementary measures, with the overall programme being discussed in specific working groups (see below).

234. At the federal level, the Bureau of the Interdepartmental Unit has begun an overall assessment of how the procedure for protecting the victims of trafficking in minors is applied. The objective is to determine whether any aspects of the system should be changed in order to take fuller account of minors' situation.

235. The Flemish action plan to enhance the protection of victims of adolescent prostitution was presented on 25 January 2016. This plan focuses on one form of human trafficking, namely the sexual exploitation of underage girls by procurers of teenagers. This term denotes persons who intentionally make adolescents emotionally dependent on them in order to force them into prostitution.

236. In 2018, the actions launched in 2016 and developed in the interim were evaluated and found wanting. With the involvement of all of the partners, the actions were updated in four areas: prevention, protection, prosecution and partnership. A programme was developed which extends the number of collaborating assistance organizations in order to enhance the capacity to manage the requirements of tailor-made programmes for the victims of adolescent prostitution.

237. A contract signed with the human trafficking referral centre Payoke provides for second-line consultations and assessments for those working in a wide range of youth assistance services. The contract embraces an approach which merges the human trafficking perspective with youth assistance. This initiative aims to centralize victim identification, ensure assessment quality and provide victims with legal support.

238. Regarding initiatives involving the French Community and the German-speaking Community, a working group has been set up with the Federal Public Service for Justice

which brings together representatives of the justice sector, specialized reception centres, Esperanto (a shelter for unaccompanied foreign minors who are victims of trafficking), the youth assistance administration and the guardianship service.

239. The group devotes particular attention to the initial steps and contacts made when it is discovered that a minor may be the victim of human trafficking. A policy outline has been developed to clarify inconsistencies between the provisions of the decree on youth assistance and the federal standards. There is less emphasis on the reception aspect in these discussions, as Esperanto has specific responsibility for it on French Community territory.

240. A policy outline has been developed to complement the instructions on guidance for trafficked minors. Its application will be assessed in order to decide whether further formal steps are necessary.

241. Two training programmes for first responders in the youth assistance and youth protection services are scheduled to begin in May 2019. The objective is to designate focal points for human trafficking in each institution. Participants will be provided with learning material, such as indicators. The training will be based on the REACT project (Reinforcing Assistance to Child Victims of Trafficking) developed by ECPAT (Every Child Protected against Trafficking), which draws on real-life examples.

## **L.2 Investigation, prosecution and punishment**

242. On the criminal policy front, the circular on the investigation and prosecution of human trafficking was updated in 2015.

243. A leaflet has been distributed to inform the banking sector about fraudulent transactions with potential links to trafficking. The aim is to encourage the reporting of this type of transaction to the Financial Investigation Unit.

## **L.3 Victims**

244. Regarding assistance to victims, circular COL 8/2008 on the establishment of multidisciplinary cooperation concerning human trafficking and/or certain aggravated forms of migrant smuggling was revised on 23 December 2016. It places greater emphasis on child victims and also on the identification of victims who are of Belgian nationality.

245. An awareness-raising campaign was launched in 2018 to alert hospitals to signs of trafficking among victims receiving medical care. An awareness day has been held within the Benelux framework.

246. The Aliens Act has also been amended in order to change the type of document issued to victims during the 45-day grace period. The previous document was an “order to leave the territory within 45 days”, which had negative connotations for victims. Since 2017 this has been called an “annex 15” (temporary residence permit).

247. Many other actions taken by the Federal Agency for the Reception of Asylum Seekers, the Interdepartmental Unit for Coordinating Measures to Combat Trafficking and Smuggling in Human Beings, and other entities are listed in annex 9.

## **L.4 Statistical data**

248. The annual report of Myria on “Trafficking and smuggling in human beings 2018: minors in grave danger” contains many statistics, some of which are broken down by nationality.<sup>40</sup>

## **Article 6 Remedies and judicial action with regard to complaints**

249. For more information, see section C.4.3 concerning article 2.

## **Article 7**

### **Non-discrimination in the fields of teaching, education, culture and information**

250. In the French Community, education in philosophy and citizenship has been included in the primary school curriculum since 2016 and in the secondary school curriculum since 2018. The educational objectives include “to know oneself and be open to others”, “to build citizenship on a foundation of equal rights and dignity” and to acquire the skills to identify and break down prejudice and discrimination. The principles of equality and non-discrimination have been introduced into the accreditation standards for school textbooks (Decree of 30 June 2016 amending the Decree concerning the management of the education system in the French Community). The Pact for Excellence strengthens governance in the education system, providing schools with the tools to put in place strategies for promoting citizenship and preventing discrimination in school curricula and counselling. Schools will be further strengthened from the start of the 2019/20 school year. The adoption of a common core curriculum for students between the ages of 3 and 15 is designed to reduce vertical and horizontal divisions in the school population. Beyond this structural impact, it paves the way for more adaptable teaching which takes greater account of pupil diversity. An important component of the reform of initial teacher training adopted in February 2019 aims to democratize schools through skills training in the areas of social psychology and cultural diversity and in relation to inequalities based on the criteria set out in the Decree of 12 December 2008 concerning measures to combat certain forms of discrimination. Teacher training has been further developed in areas such as the reception and inclusion of new arrivals, the consideration of cultural diversity, the right to schooling, citizenship education, gender equality and understanding of radicalization processes that can lead to violence.

#### **A. Wearing of religious symbols**

251. For more information, see section C.5 concerning article 2.

#### **B. Cultures and languages of migrant groups established in the territory**

252. A Flemish campaign<sup>41</sup> was rolled out in 2017 to tackle discrimination and prejudice of all kinds. A short film shown on national television shows the impact of inappropriate and derogatory remarks. The campaign focused on different target groups under the slogan “Zit u hier voor iets tussen?” (Is it something to do with you?). It also featured a number of short web films and victims’ testimonies disseminated through social media.

253. In the Flemish Community the language of education is Dutch. Several initiatives are under way to improve the Dutch of new arrivals who speak a foreign language.

254. Schools can take certain measures to raise awareness of or teach different languages. In primary education, schools can start to build awareness at the nursery level, whatever the language. All modern languages may be taught in secondary schools. However, since these initiatives are optional and non-mandatory, only a minority of schools adopt them.

255. The “Het is gauw gebeurd” (It can happen) campaign is described in paragraphs 34, 87 and 88.

### **Other recommendations**

#### **A. Durban Declaration and Programme of Action**

256. See paragraph 15 of the present report.

**B. Amendment to article 8 of the Convention**

257. Belgium has accepted the 1992 amendment to article 8 of the International Convention on the Elimination of All Forms of Racial Discrimination (11 November 2016).

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