



**International covenant  
on civil and  
political rights**

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HUMAN RIGHTS COMMITTEE  
Seventy-ninth session

**List of issues to be taken up in connection with the consideration of the  
fourth periodic report of BELGIUM (CCPR/C/BEL/2003/4)**

**Right to an effective remedy (art. 2)**

1. The Committee understands that the right of persons illegally in Belgium to an effective remedy is threatened by the fact that police officers and assistants to the public prosecutor have the obligation to inform the prosecution and the Aliens Office of the complainant's presence in Belgian territory, which could lead in most cases to the expulsion of the person concerned. What measures have been considered to guarantee the right of such persons to an effective remedy?

**Principle of non-discrimination (arts. 2, 20 and 26)**

2. The Committee has taken note of the important step taken in 1999 to punish racist press offences, and of the adoption of the Act of 12 February 1999, which makes it possible to impose financial penalties on openly racist or xenophobic political parties by depriving them of direct public funding (paras. 1.1 and 1.2 of the report, section on article 20). Please indicate what the results of these reforms have been and whether the Act of 12 February 1999 has been implemented.

**Right to life and prohibition of torture (arts. 6 and 7)**

3. Have the Belgian authorities registered any decrease in acts of violence against women over the past 10 years? What have been the results of the implementation of the Act of 24 November 1997 to combat domestic violence (para. 4.1.1 (a) of the report, section on art. 3)?

4. According to information before the Committee, when considering allegations of police violence, the Standing Committee on the Supervision of Police Service (Standing Committee P), often invokes the differences between the complainant's version and the version of law

enforcement officers in order to conclude that the facts cannot be verified. Please comment and indicate whether a full investigation is conducted when such contradictions occur. How can the State party explain the considerable discrepancy between the number of complaints of illegal use of force by the police and the number of actual convictions (only 3 per cent) (paras. 1.2.1, 1.2.2 and 2.2 of the report, section on art. 7)?

5. How effective are internal and external oversight procedures with respect to the police? There have been reports that members of the investigation services of Standing Committee P are seconded from a police or administrative unit. **Please explain how the independence of the system is guaranteed** (paras. 1.2.2 of the report, section on art. 7).

6. Please indicate how many soldiers suspected of having committed acts of torture or cruel, inhuman or degrading treatment or punishment during the United Nations operation in Somalia were called to account before the Council of War. How many of them were convicted, and on what grounds (para. 2.1 of the report, section on art. 7)?

7. Please state what punishment has been demanded for the five gendarmes accused in the case of Sémira Adamu, who died while being repatriated to Togo in September 1998, and whether they have finally been sentenced. New cases of excessive use of force during the expulsion of aliens have been reported in spite of the entry into force of the new guidelines (para. 2.3.1, section on art. 7). In this regard, how have the recommendations of the European Commission for the Prevention of Torture (2001) been followed up? Please indicate the content of the Royal Decree of 11 April 2000 on the use of force during expulsions (para. 1.5, section on art. 13).

8. What is the exact function of the “border controllers and escorts” mentioned in the report (para. 2.3.2, section on art. 7)? Please indicate their number, and whether an assessment of their work has been made. What means are used to monitor expulsion measures?

### **Prohibition of slavery (art. 8)**

9. Please indicate what have been the results of the implementation of the Act of 13 April 1995 containing provisions to combat the traffic in persons, as amended on 1 April 2001 (para. 2 of the report, section on art. 24). The report acknowledges that, in spite of the measures that Belgium has taken to combat trafficking in human beings, field workers criticize the lack of funds, human and material resources available for dismantling trafficking networks and ensuring that victims can be looked after properly (para. 1.5, section on art. 8). What measures are envisaged to address this problem?

10. The report points out that persons operating in the area of the protection of “unaccompanied foreign minors” from trafficking networks are calling for specific regulations on such minors to be drafted, for magistrates and police officers to be given training on the subject, and for the creation of special reception centres (para. 8.4 of the report, section on art. 24). What steps has the State party taken in this regard?

### **Security of person and protection against arbitrary arrest (art. 9)**

11. The right of detainees to access to a lawyer or a doctor immediately following arrest is still not guaranteed under Belgian law. In the opinion of the State party, does the proposed reform of criminal procedural law, which contains provisions on the right to a lawyer, but in restrictive conditions, fully meet the requirements of articles 9 and 14 of the Covenant? Please indicate any progress that has been made in the reform process, and how the authorities plan to respond, as a matter of urgency, to the concerns that the Committee and other international bodies have already expressed on this issue (para. 1.1 of the report, section on art. 9).

12. According to information before the Committee, some asylum-seekers who were formally released have been transferred to the transit area of the national airport without the right to leave it, and have been left there without assistance. This practice is said to be endorsed by the Aliens Office and the Ministry of the Interior. Please comment.

### **Treatment of persons deprived of their liberty (art. 10)**

13. According to information before the Committee, prison overcrowding, which is a source of concern in Belgium, has been brought about by an increase in pre-trial detention and in lengthy prison sentences and refusal to grant parole. Please comment. Please indicate what are the “alternatives to pre-trial detention”, mentioned in the report, as well as the results of such measures (para 1.3 of the report, section on art. 7).

14. Does the State party intend to modernize its prison law, particularly by defining the legal status of detainees, clarifying the disciplinary regime in prisons and guaranteeing the right of detainees to complain and have effective recourse against a disciplinary sanction that has been imposed on them, before an independent body which is accessible to them without delay?

15. According to the State party’s report, the practice of keeping mentally ill patients in psychiatric annexes of prisons for several months before transferring them to social protection establishments, about which the Committee expressed concern during its consideration of the preceding report, still exists. What degree of political priority has been given to this question (para. 2.2.1, B and C of the report, section on art. 10)?

16. The Royal Decree of 2 August 2002 provides that an Individual Complaints Board will be competent to hear complaints from aliens concerning the conditions of, and regulations governing their detention in premises run by the Aliens Office. Please indicate when this board will become operational. Why must complaints be lodged within such a short time period (five days)? Is not the non-suspensive nature of the expulsion measure or its execution in the case of a complaint likely to dissuade the persons concerned from bringing complaints before the board? (para. 2.2.3 of the report, section on art. 10, and annex VII).

17. What are the regulations governing the operation of the INAD centres (for passengers refused entry) at the border, and the rights of persons detained in these centres, particularly with regard to information thereon, access to a lawyer, a doctor and outside contacts? Please explain why the Individual Complaints Board will not be empowered to consider complaints of persons detained in such centres.

**No expulsion without legal safeguards (art. 13)**

18. The report indicates that a ministerial circular dated 23 July 2002 gives suspensive effect to emergency remedies filed by an asylum-seeker against a decision of expulsion (para. 1.6, of the report, section on art. 13). Please explain why this measure is not available to all foreigners facing refoulement or expulsion from Belgian territory. Is it true that the aforementioned circular has not appeared in any official publication neither has it been applied in practice?

**Right to a fair trial (art. 14)**

19. Does the Court of Cassation still consider that article 14 is not applicable to the decisions of examining magistrates' courts ruling on pre-trial detention (para. 20 of the Committee's concluding observations in document CCPR/C/79/Add.99)?

**Privacy and family life (art. 17)**

20. A circular issued by the Council of Ministers on 17 July 2002 provides that an alien who served a prison sentence will not be expelled from Belgian territory if he or she has lived legally in Belgium for at least 20 years, if he or she was born in Belgium, or arrived in Belgium before the age of 12, or if, as head of household, he or she was sentenced to terms of less than five years' imprisonment. Does this fully comply with the provisions of article 17 of the Covenant (para 1.2 of the report, section on art. 13)? According to information before the Committee, the circular of the Council of Ministers has not been published, cannot be invoked in the courts and has not been applied in practice. Please comment.

**Freedom of religion (art. 18)**

21. According to the report, "the power to recognize mosques now belongs to the Regional authorities, not the Federal ones". Please explain why no mosque had been "recognized" in Belgium by 1 January 2003, as well as the consequences of such "non-recognition" (para. 1 of the report, section on art. 18).

**Protection of the family and children (arts. 23 and 24)**

22. What have been the results of the evaluation, scheduled for October 2002, of the establishment of a closed centre for minors in Everberg (para. 2.2.2 of the report, section on art. 10)? According to information before the Committee, the Everberg centre does not operate according to any pedagogical model and, in the absence of its own internal regulations, applies the general prison regulations. Please comment.

23. The report recognizes the need to provide alternatives to the detention of foreign minors since, in the absence of appropriate legislation and facilities, such detention "is not exceptional" (para. 1.3.2 of the report, section on art. 9). Please provide further details. When will the framework legislation of 24 December 2002 establishing specific guardianship arrangements for unaccompanied minors enter into force (para. 8.3 section on art. 24)? According to information before the Committee, the indiscriminate repatriation of such minors has in certain cases led to their disappearance in their country of origin. Please comment.

24. In combating child pornography, has the implementation of the relevant provisions of the Act of 13 April 1995 produced any tangible results?

**Dissemination of the Covenant and the Optional Protocol**

25. Please describe the measures taken to disseminate information on the Covenant and its first Additional Protocol, as well as information on the submission of reports and on their consideration by the Committee, particularly on the Committee's concluding observations.

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