



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

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## Committee on the Elimination of Racial Discrimination

### Concluding observations on the combined twentieth to twenty-second periodic reports of Belgium\*

1. The Committee considered the combined twentieth to twenty-second periodic reports of Belgium<sup>1</sup> at its 2814th and 2815th meetings,<sup>2</sup> held on 20 and 21 April 2021 in virtual format because of the coronavirus disease (COVID-19) pandemic. At its 2821st meeting, held on 29 April 2021, it adopted the present concluding observations.

#### A. Introduction

2. The Committee welcomes the submission of the combined twentieth to twenty-second periodic reports of the State party. The Committee appreciates the State party's agreement to conduct the dialogue in virtual format because of the COVID-19 pandemic. It welcomes the open and constructive dialogue with the State party's delegation. It thanks the delegation for the information provided during the consideration of the report in reply to questions raised by the members of the Committee and for the additional written information submitted after the dialogue.

#### B. Positive aspects

3. The Committee welcomes the State party's ratification of or accession to the following international human rights instruments:

(a) Optional Protocol to the International Covenant on Economic, Social and Cultural Rights on 20 May 2014;

(b) Optional Protocol to the Convention on the Rights of the Child on a communications procedure on 30 May 2014;

(c) 1961 Convention on the Reduction of Statelessness on 1 July 2014.

4. The Committee also welcomes the following legislative, institutional and policy measures taken by the State party:

(a) Act No. 2018200516 of 15 January 2018, containing various provisions on employment, which introduced into the Social Criminal Code the possibility for labour inspectors to carry out situational tests to uncover workplace discrimination;

(b) Act No. 2019012931 of 12 May 2019, which provided for the establishment of the Federal Institute for the Protection and Promotion of Human Rights;

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\* Adopted by the Committee at its 103rd session (19–30 April 2021).

<sup>1</sup> CERD/C/BEL/20-22.

<sup>2</sup> See CERD/C/SR.2814 and CERD/C/SR.2815.



(c) Royal Decree No. 2019200431 of 11 February 2019, which established the conditions in which private sector employers may take positive actions (special measures) in respect of at-risk groups.

## C. Concerns and recommendations

### Data collection

5. The Committee takes note of the information provided by the State party on the issue of data collection but is concerned about the national legislation on the collection of personal data that reveal a person's race or ethnic origin, which leads to a lack of comprehensive disaggregated data and makes it difficult to assess the extent to which the State party is fulfilling its obligations under the Convention. It regrets that the State party has not developed sufficiently appropriate and accurate criteria to be able to produce reliable statistics on the ethnic composition of its population (art. 1).

6. **Recalling the importance of data for identifying and effectively combating racial discrimination, the Committee takes note of the plans that are set to be carried out in 2021 and recommends that the State party endeavour to develop tools that will allow it to have an overall view of the composition of its population. In this regard, the State party should provide details of any information on descent or national or ethnic origin derived from social surveys and on first languages, languages commonly spoken or any other indicators of ethnic diversity. The information should be backed up by figures and should provide a qualitative description of the ethnic characteristics of the population obtained voluntarily, anonymously and on the basis of self-identification.**

### National human rights institution

7. While noting the establishment of the Federal Institute for the Protection and Promotion of Human Rights, the Committee is concerned that, at present, the Institute has a limited mandate, covering only the fundamental rights that come under federal jurisdiction. The Committee is also concerned that the Institute is not able to consider issues dealt with by sectoral institutions for the promotion and protection of human rights and that there is no collaboration protocol with such institutions. Furthermore, the Committee is concerned that the Institute does not have a mandate to receive and deal with individual complaints (art. 2).

8. **The Committee recommends that the State party adopt the necessary measures, in consultation with civil society and other stakeholders, to bring the Federal Institute for the Protection and Promotion of Human Rights into full compliance with the principles relating to the status of national institutions for the promotion and protection of human rights (the Paris Principles), particularly by ensuring that its mandate covers all human rights throughout the territory of the State party, including at the federal and regional levels. It also recommends that the Institute be given the mandate to receive and handle individual complaints, including cases of language discrimination against minorities, and that it be allocated sufficient human and financial resources to enable it to fulfil its mandates.**

### Institutional framework

9. The Committee takes note of the work done by Unia to promote equal opportunities and combat discrimination, including racial discrimination, in Belgium. Nevertheless, it remains concerned about the decision of the Flemish government to withdraw in 2023 from the cooperation agreement between the federal State, the communities and the regions on the establishment and operation of Unia, in order to create its own anti-discrimination institution in Flanders. The Committee is concerned that such a withdrawal would result in a loss of the resources of Unia, make the system for the promotion and protection of human rights in Belgium more complex and ultimately impede progress towards the implementation of the Convention in the domestic legal system (art. 2).

10. **The Committee recommends that the State party ensure the consolidation and strengthening of the work of Unia as an inter-federal institution that combats discrimination, including racial discrimination.**

#### **Action plan against racism**

11. While noting the establishment of an interministerial conference against racism, which in September 2020 adopted a launching note that sets out guidelines for the action plan, the Committee is concerned that the State party has not yet adopted a national or inter-federal action plan against racism, despite the recommendation made in its previous concluding observations<sup>3</sup> (art. 2).

12. **The Committee recommends that the State party adopt a national action plan against racism while ensuring greater participation by relevant civil society actors and representatives of groups protected by the Convention in the development of the plan. It also recommends that the State party establish a body to monitor the implementation of the plan. The Committee further recommends that the plan should include the structural dimension of racial discrimination and set measurable goals and deadlines for achieving them, and that sufficient resources should be allocated for the effective implementation of the plan.**

#### **Racially motivated police violence**

13. The Committee is concerned about allegations of deaths in custody or as a result of police action and allegations of violence and ill-treatment suffered by persons belonging to ethnic minorities, migrants and asylum seekers at the hands of police officers. The Committee is also concerned about reports that such violence and ill-treatment have intensified against the backdrop of monitoring compliance with the lockdown measures taken during the COVID-19 pandemic and the recent anti-racism demonstrations in the State party. The Committee is further concerned about the lack of comprehensive data in this regard and the information in the State party's report that, according to the data available to the Standing Committee for Police Monitoring for the period 2014–2017, no conviction was handed down for racist acts by a police officer. Furthermore, the Committee is concerned that cases of racially motivated police violence are treated as isolated problems and are not dealt with in a consistent and systematic way in order to confront a situation that suggests the presence of a structural discrimination challenge (arts. 2, 4 and 6).

14. **The Committee recommends that the State party:**

(a) **Take measures to ensure that prompt, thorough and impartial investigations are carried out into all racist incidents caused by or involving the police, ensure that those responsible for such acts are prosecuted and appropriately punished and provide adequate reparation to the victims;**

(b) **Improve its system for the collection of data and the recording of complaints concerning racially motivated police violence, using appropriate indicators that identify the descent or national or ethnic origin of victims;**

(c) **Promote ethnic diversity within the police force and strengthen the measures taken to prevent, investigate and punish acts of racism between police officers;**

(d) **Carry out a comprehensive survey aimed at streamlining and strengthening the procedures and mechanisms for monitoring the police services and adopt a consistent and systematic approach that takes into account the structural dimension of racially motivated incidents.**

#### **Racial profiling**

15. The Committee is concerned that racial profiling by the police remains a persistent problem in the State party and that there is no law explicitly prohibiting such profiling. The Committee is also concerned that there is a risk of abuse in practice based on the

<sup>3</sup> CERD/C/BEL/CO/16-19, para. 6.

interpretation of the term “reasonable grounds” that is used in Act No. 1992000606 of 5 August 1992, the Police Functions Act, in connection with the powers of police officers to carry out identity checks. The Committee is further concerned about the lack of comprehensive data, disaggregated by ethnicity or national origin, on persons who are targeted by identity checks and victims of racial or ethnic profiling (arts. 2, 4 and 5).

**16. Recalling its general recommendation No. 36 (2020) on preventing and combating racial profiling by law enforcement officials, the Committee urges the State party to intensify efforts to combat effectively and end any practice of racial profiling by law enforcement officials, including by:**

**(a) Including in its legislation an explicit prohibition of racial profiling based on the Committee’s general recommendation No. 36 (2020);**

**(b) Expediting the process of developing and adopting an action plan to combat racial or ethnic profiling and specific guidelines or detailed instructions for identity checks to prevent racial profiling, in cooperation with the communities most likely to be subjected to racial profiling;**

**(c) Collecting disaggregated data on complaints of racial profiling, publishing the data regularly and providing the data in its next periodic report;**

**(d) Putting in place an independent system for handling complaints of racial profiling;**

**(e) Using forms specifying the grounds for a check or any other police operation, and providing information about the remedies available to the victims;**

**(f) Strengthening training programmes for police officers on racial profiling, taking into account the Committee’s general recommendation No. 36 (2020).**

#### **Racist hate crimes and hate speech**

17. The Committee is concerned about the lack of disaggregated data on racist hate crimes and hate speech and the fact that, at present, the existing registration system in the State party does not allow for distinguishing them or identifying specific cases of ethno-religious hatred, such as antisemitism, Islamophobia, anti-Gypsyism, Afrophobia or anti-Asian hatred. The Committee is also concerned that the largest proportion of racist hate crimes in the State party are ethno-religious in nature (art. 4).

18. The Committee is concerned about the numerous racist hate crimes reported since the beginning of the COVID-19 pandemic, targeting people of Asian origin in particular. The Committee is also concerned about the increasing reports of racist hate speech, including antisemitic and Islamophobic speech, and the increasingly aggressive language on the Internet and social networks, including against migrants, refugees and asylum seekers (art. 4).

**19. The Committee recommends that the State party:**

**(a) Adopt without delay reforms to improve its systems for recording racist hate crimes and hate speech and for data collection, while facilitating the identification of specific cases of ethno-religious hatred and other cases involving intersectional motivations;**

**(b) Take all necessary measures to prevent and firmly combat racist hate crimes and hate speech and to protect the groups most at risk of racial discrimination, including in the context of the COVID-19 pandemic;**

**(c) Ensure that racist hate crimes and hate speech are thoroughly investigated and prosecuted, perpetrators are appropriately punished and victims are provided with effective remedies and adequate reparation, and provide in its next periodic report detailed information on investigations, prosecutions and convictions in this regard;**

**(d) Evaluate and continue its targeted awareness-raising campaigns to combat racist hate crimes and hate speech, confront prejudices and negative attitudes**

**towards ethno-religious minorities, migrants, refugees and asylum seekers and promote tolerance and understanding with respect to these groups;**

**(e) Continue its efforts to monitor the spread of racist hate speech on the Internet and social media, in close cooperation with Internet service providers and social media platforms and the communities most affected by racist hate speech.**

#### **Prohibition of organizations inciting racial discrimination**

20. While noting the information provided by the State party, the Committee is concerned that Belgian legislation still does not contain any provisions declaring organizations that incite racial discrimination illegal, despite the Committee's recommendation to that effect in paragraph 6 of its previous concluding observations. It is also concerned that the legislation does not contain any provisions banning parties that seek to curtail freedoms or de facto organizations that promote racial discrimination (art. 4).

**21. The Committee reiterates its previous recommendation that the State party amend its legislation to declare illegal and prohibit organizations that incite racial discrimination. It also recommends that the State party consider including in its legislation a provision banning parties that seek to curtail freedoms.**

#### **Situation of Roma and Traveller communities**

22. While noting the information provided by the State party on the measures taken to improve the situation of Roma in various areas of life and the recognition of the caravan as a type of housing, the Committee remains concerned about:

(a) The persistence of social exclusion and poverty experienced by Roma and Travellers, in particular children;

(b) The high rate of unemployment among Roma and Travellers, especially women, compared to the rest of the population;

(c) The low rate of health insurance coverage for Roma and Travellers and the fact that their life expectancy is significantly lower than that of the general Belgian population;

(d) The insufficient number of transit and residential sites for Travellers, and the evictions that they face;

(e) The negative impact of the COVID-19 pandemic on the already precarious enjoyment of economic, social and cultural rights by Roma and Travellers (art. 5).

**23. Recalling its general recommendation No. 27 (2000) on discrimination against Roma, the Committee recommends that the State party:**

**(a) Adopt a new Roma integration strategy, ensuring full participation of the Roma community in its development, allocate the necessary financial resources for its implementation and establish a mechanism for monitoring its implementation;**

**(b) Take effective measures to combat poverty among Roma and Travellers, with particular attention devoted to children, including within the framework of the federal poverty reduction plan;**

**(c) Continue efforts to facilitate access to the labour market for Roma and Travellers, especially women;**

**(d) Ensure that Roma and Travellers have full and free access to health care without discrimination;**

**(e) Increase the number of transit and residential sites for Travellers and put an end to the evictions that they face;**

**(f) Develop and implement at all levels of government specific strategies to mitigate the socioeconomic effects of the COVID-19 pandemic on Roma and Travellers, ensuring the participation of these groups in the development, implementation and monitoring of these strategies.**

### **Situation of people of African descent**

24. The Committee regrets that the State party did not provide information on measures aimed specifically at people of African descent and is concerned about reports that these people:

- (a) Have high levels of unemployment and employment in lower status jobs;
- (b) Are very much affected by racial discrimination, mainly in the areas of employment, housing and education, as well as by xenophobia and related intolerance, and often face multiple discrimination based on their race, colour, sex, sexual orientation and religious beliefs;
- (c) Are not sufficiently represented in public administration, the media, cultural settings, the scientific community and academia (art. 5).

25. **Recalling its general recommendation No. 34 (2011) on racial discrimination against people of African descent, the Committee recommends that the State party:**

- (a) **Adopt a national strategy for the inclusion of people of African descent and create a national platform for that purpose, in partnership with people of African descent;**
- (b) **Take effective measures, including special measures, to combat all forms of discrimination against people of African descent, in particular in the fields of employment, housing and education, paying special attention to the multiple discrimination that they encounter;**
- (c) **Take effective measures to increase the representation of people of African descent in public administration, the media, cultural settings, the scientific community and academia.**

### **Situation of non-citizens, including migrants, refugees, asylum seekers and stateless persons**

26. The Committee notes the measures adopted by the State party to facilitate the enjoyment of economic, social and cultural rights by migrants, refugees, asylum seekers and stateless persons. The Committee remains concerned, however, about:

- (a) Reports that non-citizens are overrepresented in the prison system and the lack of reliable data on the national or ethnic origin of the persons concerned and the rate and length of imprisonment;
- (b) The risk of deportation that migrants in an irregular situation face when they exercise certain basic rights, such as the rights to education for minors, health care and housing, or when they report a crime to the police;
- (c) The discrimination and the many obstacles that nationals of countries outside the European Union, particularly women, come up against when trying to enter the labour market and gain access to housing;
- (d) The complex, variable and costly procedures that persons in an irregular situation must follow in order to obtain emergency medical care;
- (e) The negative impact of the COVID-19 pandemic on the enjoyment of economic, social and cultural rights by migrants, refugees, asylum seekers and stateless persons (art. 5).

27. **The Committee recommends that the State party:**

- (a) **Develop reliable indicators to determine the extent to which non-citizens are overrepresented in the prison system so that the situation can be assessed and the necessary measures taken to remedy any problems in this regard;**
- (b) **Take the necessary measures to ensure in practice that migrants in an irregular situation have effective access to emergency medical care, education, health care and housing, without discrimination, and may lodge complaints without risk of arrest or forcible removal;**

(c) **Ensure that nationals of countries outside the European Union have access to the labour market and housing without discrimination on the basis of nationality or origin;**

(d) **Develop and implement specific strategies to mitigate the socioeconomic effects of the COVID-19 pandemic on migrants, refugees, asylum seekers and stateless persons.**

#### **Trafficking in persons**

28. The Committee is concerned about the persistence of trafficking in persons in the State party and the significant increase, in recent years, in the number of cases of trafficking that have been dropped by public prosecutors. The Committee is also concerned about the lack of financial and human resources to effectively combat trafficking in persons, including for the detection of such cases and the protection of victims (art. 5).

29. **The Committee recommends that the State party:**

(a) **Adopt the national action plan to combat trafficking in persons for the period 2021–2025 that is currently being developed;**

(b) **Strengthen measures to prevent trafficking in persons, to investigate cases of such trafficking, to punish those responsible and to provide adequate protection for victims;**

(c) **Allocate sufficient and regular financial and human resources for front-line actors, prosecutors and judges and specialized reception centres for victims of trafficking.**

#### **Human rights education to combat prejudice and intolerance**

30. The Committee is concerned that human rights education legislation and policies, including on racial discrimination, are not sufficient to combat modern forms of racism and intolerance and to strengthen and ensure peaceful coexistence. The Committee notes the concern of the Working Group of Experts on People of African Descent that primary and secondary school curricula do not adequately reflect the history of colonization or the history and contributions of people of African descent in Belgium<sup>4</sup> (art. 7).

31. **The Committee recommends that the State party step up its efforts to ensure that human rights education and courses on the fight against racism and discrimination, respect for diversity and the promotion of equal treatment are designed with the participation of the communities affected and are included in the curricula at all school levels. It also recommends that the State party periodically evaluate curriculum content relating to the history of colonization in partnership with all relevant stakeholders, including the community of people of African descent.**

### **D. Other recommendations**

#### **Ratification of other treaties**

32. **Bearing in mind the indivisibility of all human rights, the Committee encourages the State party to consider ratifying those international human rights treaties that it has not yet ratified, in particular treaties with provisions that have direct relevance to communities that may be subjected to racial discrimination, including the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families. The Committee also encourages the State party to consider ratifying the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment.**

<sup>4</sup> A/HRC/42/59/Add.1, para. 27.

#### **Follow-up to the Durban Declaration and Programme of Action**

33. In the light of its general recommendation No. 33 (2009) on follow-up to the Durban Review Conference, the Committee recommends that, when implementing the Convention in its domestic legal order, the State party give effect to the Durban Declaration and Programme of Action, adopted in September 2001 by the World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance, taking into account the outcome document of the Durban Review Conference, held in Geneva in April 2009. The Committee requests that the State party include in its next periodic report specific information on action plans and other measures taken to implement the Durban Declaration and Programme of Action at the national level.

#### **International Decade for People of African Descent**

34. In the light of General Assembly resolution 68/237, in which the Assembly proclaimed 2015–2024 the International Decade for People of African Descent, and Assembly resolution 69/16 on the programme of activities for the implementation of the Decade, the Committee recommends that the State party prepare and implement a suitable programme of measures and policies in collaboration with organizations and peoples of African descent. The Committee requests that the State party include in its next periodic report precise information on the concrete measures adopted in that framework, taking into account its general recommendation No. 34 (2011) on racial discrimination against people of African descent.

#### **Consultations with civil society**

35. The Committee recommends that the State party continue consulting and increasing its dialogue with civil society organizations working in the area of human rights protection, in particular those working to combat racial discrimination, in connection with the preparation of the next periodic report and in follow-up to the present concluding observations.

#### **Dissemination of information**

36. The Committee recommends that the State party's reports be made readily available and accessible to the public at the time of their submission and that the concluding observations of the Committee with respect to those reports be similarly made available to all State bodies entrusted with the implementation of the Convention, including communities and regions, and publicized on the website of the Federal Public Service for Foreign Affairs, Foreign Trade and Development Cooperation in the official and other commonly used languages, as appropriate.

#### **Follow-up to the present concluding observations**

37. In accordance with article 9 (1) of the Convention and rule 65 of its rules of procedure, the Committee requests the State party to provide, within one year of the adoption of the present concluding observations, information on its implementation of the recommendations contained in paragraphs 6 (data collection), 8 (national human rights institution) and 14 (a) and (b) (police violence) above.

#### **Paragraphs of particular importance**

38. The Committee wishes to draw the attention of the State party to the particular importance of the recommendations contained in paragraphs 16 (racial profiling), 19 (racist hate crimes and hate speech), 23 (f) (effects of the COVID-19 pandemic on Roma and Travellers) and 27 (d) (effects of the COVID-19 pandemic on migrants, refugees, asylum seekers and stateless persons) above and requests the State party to provide detailed information in its next periodic report on the concrete measures taken to implement those recommendations.



**Preparation of the next periodic report**

39. **The Committee recommends that the State party submit its combined twenty-third to twenty-fifth periodic reports, as a single document, by 6 September 2024, taking into account the reporting guidelines adopted by the Committee during its seventy-first session<sup>5</sup> and addressing all the points raised in the present concluding observations. In the light of General Assembly resolution 68/268, the Committee urges the State party to observe the limit of 21,200 words for periodic reports.**

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<sup>5</sup> CERD/C/2007/1.