



# International Convention for the Protection of All Persons from Enforced Disappearance

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## Committee on Enforced Disappearances

### Concluding observations on the additional information submitted by Belgium under article 29 (4) of the Convention\*

1. The Committee on Enforced Disappearances considered the additional information submitted by Belgium under article 29 (4) of the Convention<sup>1</sup> at its 522nd meeting, held on 24 March 2025.<sup>2</sup> At its 537th meeting, held on 3 April 2025, the Committee adopted the present concluding observations.

#### A. Introduction

2. The Committee welcomes the additional information submitted by Belgium, as requested in its previous concluding observations and in the list of priority themes it adopted at its twenty-seventh session.<sup>3</sup>

3. The Committee expresses appreciation for the constructive dialogue with the delegation of the State Party on the measures taken to implement the Convention and welcomes the openness with which the delegation responded to the questions posed. It also thanks the State Party for the supplementary written information submitted after the dialogue.

#### B. Positive aspects

4. The Committee notes with satisfaction that, since its consideration of the State Party's report submitted under article 29 (1),<sup>4</sup> the State Party has ratified the following international instruments:

- (a) The Optional Protocol to the Convention on the Rights of the Child on a communications procedure, in 2014;
- (b) The Optional Protocol to the International Covenant on Economic, Social and Cultural Rights, in 2014.

5. The Committee also welcomes the following legislative, administrative and institutional measures taken by the State Party to give effect to the Convention:

- (a) The enactment of the new Criminal Code on 8 April 2024, set to enter into force on 8 April 2026, which includes:
  - (i) Article 89, which defines and criminalizes enforced disappearance as an autonomous offence, in line with articles 2 and 4 of the Convention;

\* Adopted by the Committee at its twenty-eighth session (17 March–4 April 2025).

<sup>1</sup> CED/C/BEL/AI/1.

<sup>2</sup> See CED/C/SR.522.

<sup>3</sup> CED/C/BEL/CO/1, para. 35, and CED/C/BEL/Q/AI/1.

<sup>4</sup> CED/C/BEL/1, CED/C/BEL/1/Corr.1 and CED/C/BEL/1/Corr.2.



- (ii) Article 83, which classifies and criminalizes enforced disappearance as a crime against humanity, in accordance with article 5 of the Convention;
- (b) The establishment of the Central Council for the Supervision of Prisons on 24 April 2019, the supervisory commissions in September 2019 and the Complaints Commission in October 2020, pursuant to the Principles Act of 12 January 2005 on the Prison Service and the Legal Status of Prisoners;
- (c) The adoption of the Act of 12 May 2019, establishing the Federal Institute for the Protection and Promotion of Human Rights;
- (d) The enactment of the Royal Decree of 23 April 2017 on Gathering, Conserving and Accessing Information on the Origin of Adopted Children, and its amendment by the Royal Decree of 29 September 2019, and the incorporation under article 368-6 of the Civil Code of the obligation to conserve information on the origins of adopted children.

## **C. Principal subjects of concern and recommendations**

### **1. General information**

#### **Ratification of the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment**

6. While the Committee notes the information provided by the State Party, it remains concerned about the delay in establishing a national preventive mechanism, which is an obstacle to the ratification of the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment.

7. **The Committee reiterates its recommendation<sup>5</sup> that the State Party ratify the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment without delay to expedite the establishment or designation of a national preventive mechanism.**

#### **National human rights institution**

8. The Committee acknowledges the sectoral institutional framework of equality bodies and human rights institutions in the State Party, including the Federal Institute for the Protection and Promotion of Human Rights and Unia (the Inter-federal Centre for Equal Opportunities and Combating Racism and Discrimination), both of which have been accredited with category B status by the Subcommittee on Accreditation of the Global Alliance of National Human Rights Institutions. It notes that the act establishing the Federal Institute provides a legal basis for its potential evolution into an inter-federal body and, eventually, a national human rights institution with category A status. However, the Committee is concerned that the mandate of the Federal Institute does not extend to matters under the jurisdiction of the communities and regions. Moreover, it remains unclear how the sectoral equality bodies and human rights institutions will coordinate with the Federal Institute – an essential factor for the effective implementation of its mandate across all human rights areas within the State Party, including in relation to the issue of enforced disappearance.

9. **The Committee encourages the State Party to continue its efforts to implement the recommendations made by the Subcommittee on Accreditation of the Global Alliance of National Human Rights Institutions in 2023, in order to ensure that the Federal Institute for the Protection and Promotion of Human Rights and Unia comply in full with the principles relating to the status of national institutions for the promotion and protection of human rights (the Paris Principles).**

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<sup>5</sup> CED/C/BEL/CO/1, para. 8.

## 2. Harmonization of domestic legislation with the Convention

### Mitigating circumstances

10. The Committee welcomes the inclusion of enforced disappearance as an autonomous offence in article 89 of the new Criminal Code, in full conformity with the definition established in article 2 of the Convention. However, it is concerned about the inclusion of a five-day temporal threshold as a mitigating circumstance in cases of enforced disappearance that do not constitute a crime against humanity. While the Committee notes the delegation's argument that this mitigating circumstance was included to encourage perpetrators to put an end to their criminal activities, it is concerned that it undermines the absolute prohibition of enforced disappearance regardless of its duration (arts. 2, 4 and 7).

11. Recalling its joint statement with the Working Group on Enforced or Involuntary Disappearances on so-called "short-term enforced disappearances", which emphasizes that, regardless of its duration, enforced disappearance produces serious harm and consequences for the disappeared and their families and presents practical challenges as regards seeking protection and the defence of their rights,<sup>6</sup> the Committee recommends that the State Party amend article 89 (2) of the new Criminal Code to remove any reference to temporal thresholds as a factor in determining the penalties to be applied, ensuring that all penalties provided for are commensurate with the gravity of the act and its consequences, in accordance with article 7 (2) (a) of the Convention.

## 3. Prosecution, investigation and cooperation in relation to enforced disappearance (arts. 8–15)

### Statute of limitations

12. The Committee notes that, according to article 32 of the Act of 9 April 2024 on Criminal Procedure, amending article 21 of the Act of 17 April 1878 containing the Preliminary Title of the Code of Criminal Procedure, "the limitation periods set out in paragraph 1 are not affected by any reduction or modification of the sentence owing to the application of mitigating circumstances". However, the Committee is concerned about the lack of clarity regarding the statute of limitations for public prosecution in cases of enforced disappearance and the continuous nature of the offence, which is not expressly recognized in the Criminal Code (art. 8).

13. The Committee recommends that the State Party amend its Criminal Code to explicitly provide that the statute of limitations for enforced disappearance, when not classified as a crime against humanity, is of a long duration and proportionate to the gravity of the offence. Furthermore, in line with article 8 of the Convention, the Committee urges the State Party to ensure that, given the continuous nature of enforced disappearance, the statute of limitations commences only once the offence has ceased.

### Disappearances in the context of migration

14. The Committee is concerned about reports of the disappearance of migrants arriving in or transiting through Belgium, including in the context of trafficking. It regrets the insufficient measures taken to investigate such cases, including in relation to cooperation with countries of origin and transit in search and rescue operations, anti-trafficking initiatives, general and forensic data collection and assistance for the families of the disappeared. The Committee notes the measures taken to search for disappeared persons, in particular the adoption of Directive No. COL 04/2022. It is concerned, however, that, in practice, only disappearances that fall into the category of cases deemed "of concern" are dealt with by the police, even though, according to the information it has received, a significant number of unaccompanied asylum-seeking minors are victims of disappearance. The Committee is also concerned that existing safeguards are insufficient to protect minors

<sup>6</sup> CED/C/11, p. 2.

in reception and care centres and those who have disappeared from them, exposing these minors to an increased risk of enforced disappearance (arts. 12, 14–16, 24 and 25).

**15. Recalling its general comment No. 1 (2023) on enforced disappearance in the context of migration, the Committee requests the State Party to:**

- (a) Redouble its efforts to prevent and investigate the disappearance of migrants arriving in and transiting through Belgium, including in the context of trafficking in persons, and ensure that those responsible are prosecuted and punished in a manner commensurate with the gravity of their acts;
- (b) Raise awareness of existing reporting mechanisms and provide professional interpreters whenever necessary, ensure that witnesses and relatives are able to report cases of disappearance without fear of deportation or deprivation of liberty and raise awareness among authorities at the federal, regional, community and municipal levels to ensure the adequate and timely identification of cases;
- (c) Enhance or establish mechanisms for cooperation and mutual legal assistance with countries of origin and transit, in accordance with articles 14 and 15 of the Convention, to facilitate the exchange of information and evidence for the purpose of locating and identifying disappeared migrants, supporting investigations and prosecutions related to their disappearances and providing assistance to victims;
- (d) Strengthen protection measures for unaccompanied asylum-seeking minors in reception and care centres by addressing the root causes of disappearances, conducting regular monitoring and inspections, improving the quality of care and ensuring that protection mechanisms are easily accessible and tailored to the specific needs and circumstances of unaccompanied minors;
- (e) Conduct thorough investigations into all cases of disappearance from reception and care centres involving unaccompanied asylum-seeking minors, including adolescents aged 13 to 18, ensure that effective search, identification and protection measures are in place to prevent and respond to enforced disappearances, and that all actions, including those outlined in Directive No. COL 04/2022, fully address the risk of enforced disappearance in accordance with the Convention.

#### **Statistical information and register of disappeared migrants**

16. The Committee notes with regret the lack of disaggregated data on disappeared migrants. It is concerned about allegations received relating to the challenges faced by the relatives of disappeared migrants in gaining access to information on the cases of their disappeared relatives (arts. 12, 14–16 and 24).

**17. The Committee recommends that the State Party:**

- (a) Collect disaggregated data on disappeared migrants, including unaccompanied asylum-seeking minors, ensuring collaboration between federal and federated entities;
- (b) Ensure the systematic recording of information on disappeared migrants, including in genetic and forensic databases, to facilitate the identification of persons who have been internationally reported as missing along migration routes, in accordance with article 19 of the Convention;
- (c) Ensure that the relatives of disappeared migrants and their representatives, wherever they reside, are able to access information on and take part in investigations and search processes.

#### 4. Measures to prevent enforced disappearances (arts. 16–23)

##### Non-refoulement

18. The Committee is concerned about reports of migration control practices that undermine the principle of non-refoulement, as also noted by the Committee against Torture<sup>7</sup> and the Human Rights Committee,<sup>8</sup> putting persons in need of international protection at risk of serious human rights violations, including enforced disappearance. It is particularly concerned about:

(a) The criteria for assessing the risk of enforced disappearance and the methods used to verify information from both the receiving State and the person facing expulsion, return, surrender or extradition;

(b) The conditions under which the State Party accepts diplomatic assurances for extradition or return, particularly when there are substantive grounds to believe that the person concerned may be at risk of enforced disappearance or other forms of ill-treatment;

(c) The impossibility of lodging a suspensive appeal against deportation decisions with the Council for Alien Law Litigation, although it is possible to request the urgent suspension of deportation (arts. 16 and 23).

19. **The Committee recommends that the State Party ensure systematic and strict respect for the principle of non-refoulement. In particular, it urges the State Party to:**

(a) Consider explicitly prohibiting in its legislation any expulsion, return, surrender or extradition if there are substantive grounds for believing that the person concerned would be at risk of enforced disappearance;

(b) Ensure that all asylum-seekers, without exemption, have unhindered access to effective asylum procedures that comply fully with the obligations established under article 16 of the Convention;

(c) Establish clear and specific criteria for expulsion, return, surrender or extradition and ensure that a consistent and thorough individual assessment is carried out to assess the risk that the person concerned could be subjected to enforced disappearance in the country of destination, including in countries considered safe;

(d) Ensure that diplomatic assurances are properly assessed with the utmost care and that they are not accepted in any case where there are substantive grounds for believing that the person concerned would be at risk of enforced disappearance;

(e) Ensure that an appeal can be lodged against any decision made in the context of a removal for the purpose of executing a deportation order, and that this appeal has suspensive effect.

##### Register of persons deprived of liberty

20. While noting the introduction of a pilot digital register of persons deprived of liberty, the readiness of a relevant draft royal decree since 2022 and the initial steps taken to promote the establishment of a centralized register of persons deprived of liberty, the Committee remains concerned that there is still no unified register across federal and local police districts and that existing district registers do not include all the information referred to in article 17 (3) of the Convention (arts. 17 and 18).

21. **The Committee recommends that the State Party expedite the enactment of the draft royal decree on the register of persons deprived of liberty, ensuring cooperation at the federal, community and local levels. It also recommends that the State Party ensure that all instances of deprivation of liberty, without exception and from their outset, are entered into official registers or records that include, at a minimum, the information required under article 17 (3) of the Convention. The Committee further recommends that the State Party ensure that:**

<sup>7</sup> CAT/C/BEL/CO/4, paras. 25 and 26.

<sup>8</sup> CCPR/C/BEL/CO/6, paras. 31 and 32.

(a) Registers or records of persons deprived of their liberty are promptly and accurately completed and updated and are regularly checked, and that, in the event of irregularities, the officials responsible are duly sanctioned;

(b) Any person with a legitimate interest has prompt and easy access to, at a minimum, the information listed in article 18 (1) of the Convention.

#### **Training on the Convention**

22. The Committee notes the information provided concerning the numerous training programmes offered to civilian and military law enforcement personnel, medical practitioners, public officials and others who may be involved in the custody or treatment of persons deprived of liberty. Nonetheless, it notes with concern that there is currently no specific, long-term training programme on enforced disappearance and the Convention for personnel involved in migration control (art. 23).

23. **The Committee recommends that the State Party:**

(a) Strengthen efforts to ensure that civilian and military law enforcement personnel, medical practitioners, public officials and others who may be involved in the custody or treatment of persons deprived of liberty, as well as border control officials, immigration officers and personnel involved in asylum, return, surrender or extradition procedures, receive specific and regular training on enforced disappearance and the Convention, as required under article 23;

(b) Incorporate into training programmes on enforced disappearance other relevant documents, such as the Guiding Principles for the Search for Disappeared Persons, the Committee's general comment No. 1 (2023) on enforced disappearance in the context of migration and the joint statements on illegal intercountry adoption<sup>9</sup> and so-called "short-term enforced disappearances".

#### **5. Measures to protect and guarantee the rights of victims of enforced disappearance and to promote international mutual legal assistance (arts. 14, 15 and 24)**

##### **Right to the truth and to reparation**

24. The Committee takes note of the support measures provided for under the Act of 1 August 1985 on Assistance for Victims of Intentional Acts of Violence and the European Convention on the Compensation of Victims of Violent Crimes and the information provided in the State Party's previous reports in that regard. However, it remains concerned that financial assistance set aside for victims of intentional acts of violence and voluntary rescuers is not provided to all victims of enforced disappearance. The Committee also regrets the insufficient information provided in response to the questions posed during the dialogue regarding the fact that national legislation does not explicitly recognize the right of victims to the truth of the circumstances surrounding an enforced disappearance, the progress of investigations and the fate of the disappeared person, and the absence of mechanisms for non-economic reparation, such as restitution, rehabilitation, satisfaction, including restoration of dignity and reputation, and guarantees of non-repetition.

25. **The Committee recommends that the State Party explicitly recognize in its national legislation the right of victims of enforced disappearance to the truth and ensure, in law, broader access to non-economic forms of reparation, including restitution, rehabilitation, satisfaction and guarantees of non-repetition, for victims of enforced disappearance, in accordance with article 24 (2) and (5) of the Convention.**

##### **International mutual legal assistance**

26. The Committee regrets the lack of details on international mutual legal assistance, including in relation to Belgian nationals or residents who have disappeared abroad (arts. 14, 15 and 24).

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<sup>9</sup> CED/C/9.

27. The State Party should strengthen mutual legal assistance mechanisms to ensure the availability of effective mechanisms to attend to requests for support from other States and to assist victims of enforced disappearance, in accordance with articles 14 and 15 of the Convention.

## 6. Measures to protect children from enforced disappearance (art. 25)

### Enforced disappearance and the wrongful removal of children during the colonial era

28. The Committee notes the decision issued by the Brussels Court of Appeal on 2 December 2024, holding the Belgian State accountable for the abduction of five children of mixed origin in the context of a systematic policy implemented during the colonial era. It also notes the adoption by the Chamber of Representatives of Resolution No. 54K2952 on 29 March 2018, addressing the segregation experienced by persons of mixed origin during the Belgian colonization of Africa, and the Act of 21 March 2023, which facilitates access to archives for family reunification following forced separation. While these measures contribute to the investigation of the role of the authorities in this regard and facilitate access to information, the Committee remains concerned that, for the time being, they do not uphold the rights of victims to truth, justice and reparation (arts. 12, 24 and 25).

29. The Committee recommends that the State Party identify and support the victims of alleged instances of enforced disappearance and the wrongful removal of children perpetrated during the Belgian colonial era and uphold their rights to truth, justice and reparation, regardless of the date and circumstances of the crime, including when the harm originated in another State and when the alleged perpetrators have not yet been identified. To this end, the State Party should:

(a) Ensure that the authorities carry out an exhaustive, independent, impartial and effective search for victims of instances of the wrongful removal of children perpetrated during the Belgian colonial era, in accordance with the Guiding Principles for the Search for Disappeared Persons, including in terms of the participation of victims and their access to information, and ensure the proper conservation and accessibility of all relevant archives;

(b) Ensure that the applicable statute of limitations commences only once the identity of the victims has been restored and that the perpetrators are brought to justice and punished in a manner commensurate with the gravity of their acts;

(c) Establish effective and sustainable cooperation mechanisms with the Democratic Republic of the Congo, Rwanda and Burundi under articles 14, 15 and 25 of the Convention.

### Illegal intercountry adoptions

30. The Committee takes note of the measures adopted by the State Party to address illegal international adoptions, in particular the adoption by the Chamber of Representatives of Resolution No. 55K2151 of 9 June 2022, which recognizes the occurrence of illegal adoptions in Belgium, recognizes the persons concerned as victims and initiates an administrative inquiry into the matter. It also notes the initiatives undertaken by the Flemish and French communities to assess the scale and impact of illegal adoptions and the Federal Government's acknowledgement, on 8 May 2024, of the State's failings and its apology to adopted persons and their families. However, the Committee is concerned that the measures taken remain sectoral and fragmented and that, according to the information received, the persons affected continue to face obstacles in gaining access to assistance and information that would allow them to uncover the truth about cases in which they have an interest. Furthermore, it regrets that the State Party does not appear to be taking steps to prosecute the perpetrators of these offences or to uphold the right of victims to reparation (arts. 12, 14, 15, 24 and 25).

### 31. The Committee urges the State Party to:

(a) Undertake an independent, comprehensive investigation into the scale and circumstances of alleged illegal intercountry adoptions in Belgium to determine

whether some of these adoptions originated in enforced disappearance and whether other offences, such as the falsification, concealment or destruction of identity documents, were committed in such cases, with a view to identifying and punishing the perpetrators of these offences;

(b) Strengthen existing procedures for reviewing and, where appropriate, annulling any adoption, placement or guardianship of a child that originated in an enforced disappearance and for re-establishing the true identity of the child concerned, in accordance with article 25 of the Convention and in the light of the joint statement on illegal intercountry adoption, and ensure effective cooperation and exchange of information in this regard between federal authorities, federated authorities and countries of origin;

(c) Adopt robust review and monitoring mechanisms across federal and federated entities to oversee ongoing intercountry adoption procedures and ensure adequate training for law enforcement officials;

(d) Ensure the timely issuance and implementation of forthcoming recommendations made in the context of the administrative inquiry mandated by Resolution No. 55K2151 of 9 June 2022, as well as those of the Flemish and French communities;

(e) In consultation with the persons concerned, identify victims of enforced disappearance and the wrongful removal of children, provide them with the support they need to establish their identity and parentage and clarify in full the circumstances in which they were adopted;

(f) Request the cooperation of the victims' States of origin, in any way that may be helpful, with a view to implementing the recommendations above, in accordance with articles 14, 15 and 25 of the Convention.

**D. Fulfilment of the rights and obligations under the Convention, dissemination and follow-up**

32. The Committee wishes to recall the obligations undertaken by States when becoming parties to the Convention and, in this connection, urges the State Party to ensure that all the measures that it adopts, irrespective of their nature or the authority from which they emanate, are in full accordance with the Convention and other relevant international instruments. In this regard, given the State Party's federal nature, the Committee calls for the State Party to ensure that the Convention is applied in full at the federal, community, regional, provincial and municipal levels.

33. The Committee also wishes to emphasize the particularly cruel effect of enforced disappearance on women and children. Women who are subjected to enforced disappearance are particularly vulnerable to sexual and other forms of gender-based violence. Women who are relatives of a disappeared person, and thus victims according to the article 24 (1) of the Convention, are particularly likely to suffer serious social and economic disadvantages and to be subjected to violence, persecution and reprisal as a result of their efforts to locate their loved ones. Children who are victims of enforced disappearance, either because they themselves were subjected to disappearance or because they suffer the consequences of the disappearance of their relatives, are especially vulnerable to numerous human rights violations. In this context, the Committee places special emphasis on the need for the State Party to ensure that gender issues and the specific needs of women and children are systematically taken into account in implementing the recommendations contained in the present concluding observations and all the rights and obligations set out in the Convention.

34. The State Party is encouraged to widely disseminate the Convention, the additional information that it submitted under article 29 (4) of the Convention and the present concluding observations, in order to raise awareness among the judicial, legislative and administrative authorities, civil society and non-governmental

organizations operating in the State Party and the general public. The Committee also encourages the State Party to promote the participation of civil society in the process of implementing the recommendations contained in the present concluding observations.

35. Under article 29 (4) of the Convention, and with a view to strengthening its cooperation with the State Party, the Committee requests the State Party to submit, by no later than 4 April 2028, specific and updated information on the implementation of its recommendations concerning measures to prevent enforced disappearances (paras. 19, 21 and 23), international mutual legal assistance (para. 27) and measures to protect children from enforced disappearance (paras. 29 and 31). The Committee encourages the State Party to involve civil society, in particular organizations of victims of enforced disappearance, in the process of preparing this information.

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