

**CONSIDERATION OF REPORTS SUBMITTED BY STATES PARTIES
UNDER ARTICLE 19 OF THE CONVENTION**

Concluding observations of the Committee against Torture
(Extracts for follow-up of CAT/C/BEL/CO/3)

BELGIUM

(...)

C. Principal subjects of concern and recommendations

(...)

Fundamental legal safeguards

11. While applauding the adoption of the “Salduz law”, which affords greater protection for the rights of persons from the moment that they are placed in custody, the Committee remains concerned that the right of access to a lawyer is effective only from the time persons are first questioned by the police rather than as soon as they are placed in custody, that private consultations with a lawyer are limited to 30 minutes, which is all the more restrictive for persons who are detained, and that, in practice, there are limitations on this right in respect, for example, of lawyers’ prompt access to case files. In addition, the Committee notes that the right to be examined by an independent physician and the right to contact family members or other persons of the detainee’s choice are restricted and that persons are informed of their rights in writing, without any explanation, which makes it difficult for some persons who have been deprived of their liberty to understand them (arts. 2 and 11).

The Committee recommends that the State party take effective steps to ensure that all persons who are held in custody actually have the benefit, from the very outset of their deprivation of liberty, of all the fundamental legal safeguards, namely, the right to be informed in an appropriate language of the reasons for their detention, the right to have prompt access to a lawyer and to consult him or her immediately following their detention, the right to contact family members or other persons of their choice and the right to have an independent medical examination performed without delay by a doctor of their choice.

Register of persons in police custody

12. The Committee notes with concern that the general register of persons held in police custody provided for in article 33 bis of the Police Functions Act has not yet been introduced. The Committee also regrets that, according to the information provided by the State party in its report, each police district has created its own

register, which does not always contain enough information to make it possible to ensure that detainees' rights are respected (arts. 2 and 11).

The Committee reiterates its earlier recommendation (CAT/C/BEL/CO/2, para. 20) and urges the State party to take appropriate measures to establish a standardized, computerized and centralized official register in which arrests are immediately and scrupulously recorded, along with, as a minimum, the following information: (i) the time of the arrest and detention; (ii) the reason for detention; (iii) the name(s) of the arresting officer(s); (iv) the location where the person is detained and any subsequent transfers; (v) the names of the officers responsible for that person while in custody; and (vi) whether the detainee had any signs of injury at the time of detention. The State party should carry out monitoring and inspections on a systematic basis in order to ensure compliance with this obligation in line with the Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment (General Assembly resolution 43/173 of 9 December 1988).

Use of force by law enforcement officials and immediate, thorough and impartial investigations

13. The Committee takes note with concern of reports that, in some cases, law enforcement officials use excessive and unjustified force during questioning or arrests. The Committee deeply regrets the fact that Jonathan Jacob reportedly died in a cell at the Mortsel police station on 6 January 2010 after being subjected to physical violence by police officers. The Committee also deeply regrets the fact that, three years after the event, the investigation has not been concluded and the perpetrators have not been brought to justice and therefore remain unpunished. The Committee takes note with concern of reports that judicial sanctions imposed upon police officers who are found guilty of acts of torture or ill-treatment are often symbolic and not commensurate with the seriousness of the acts in question. Despite the efforts of the State party to strengthen the independence of the Standing Committee for Police Monitoring (Committee P) and its Investigation Service, the Committee remains concerned by the fact that some of the investigators are former police officers, which may compromise their impartiality when they are required to conduct objective and effective investigations into allegations that acts of torture and ill-treatment have been committed by members of the police (arts. 2, 12, 13, and 16).

The State party should:

- (a) Conduct prompt, thorough, effective and impartial investigations into all alleged cases of brutality, ill-treatment and excessive use of force by law enforcement personnel, and prosecute and sanction officials found guilty of such offences with appropriate penalties;**
- (b) Provide detailed information on the investigation into the case of Jonathan Jacob;**
- (c) Set up a fully independent mechanism for the investigation of allegations of torture and ill-treatment and establish a specific register of**

allegations of torture and cruel, inhuman or degrading treatment or punishment;

(d) Ensure that law enforcement officials receive training on the absolute prohibition of torture and that they abide by the United Nations Basic Principles on the Use of Force and Firearms by Law Enforcement Officials;

(e) Take appropriate measures to further strengthen supervision and monitoring mechanisms for the police force, particularly Committee P and its Investigation Service, which should be composed of independent experts recruited from outside the police.

Complaint mechanisms in prisons and closed centres

14. The Committee notes with concern that the Principles Act of 12 January 2005, which deals with prison administration, the legal status of prisoners and the right to complain to an independent body, has not yet entered into force. The Committee further notes the explanations given by the State party as to how the Complaints Commission functions in closed centres, but remains concerned that foreigners often have difficulties in filing complaints and that no decision on the merits is adopted when the complainant has been expelled (arts. 12, 13 and 16).

The Committee invites the State party to take measures to implement the provisions of the Principles Act aimed at establishing an effective, independent complaints mechanism specifically devoted to monitoring and processing complaints in detention centres. The State party should take the necessary measures to ensure that all allegations of misconduct by detention centre and prison staff are duly examined and thoroughly and impartially investigated.

(...)

30. The Committee requests the State party to provide information by 22 November 2014 on the follow-up to the Committee's recommendations on: (a) introducing or strengthening legal safeguards for persons held in custody; (b) promptly conducting effective, impartial investigations; (c) proceedings against suspects and the penalties handed down to the perpetrators of ill-treatment; and (d) establishing a central policy custody register and a complaint mechanism in prisons and closed centres (see paragraphs 11, 12, 13 and 14 above).

(...)
