

Written submission to the CERD regarding Belgium's attainment of the International Convention on the Elimination of All Forms of Racial Discrimination, 103 Session (19 April 2021 - 30 April 2021)

Table of Contents

1. Summary
2. About Refugee Rights Europe
3. Racial discrimination against displaced people in Belgium
4. Police violence
5. Citizen violence
6. Effective remedy for racial discrimination and violence
7. The detention of refugees and displaced people
8. The situation for unaccompanied minors
9. Annex

1. Summary

1.1 Ahead of the consideration of the 103rd session of the Committee for the Elimination for all Forms of Racial Discrimination (CERD), Refugee Rights Europe (RRE) submits the following evidence, focusing on the racial and ethnic discrimination of refugees and displaced people in Belgium, with a particular focus on police violence and detention. The information included in this report is based on our independent field research, documenting the treatment of asylum seekers and refugees in Belgium in 2018, as well as a report published by RRE in 2019 alongside la Plateforme Citoyenne de Soutien aux Réfugiés and others. The report is also informed by desk research carried out by RRE.

2. About Refugee Rights Europe (RRE)

2.1 Refugee Rights Europe is a human rights organisation and registered charity in the United Kingdom and Belgium. It was founded in 2016 in response to the humanitarian crisis experienced by refugees and displaced people across Europe. The organisation is run by professionals from a range of different sectors, and its advisory group and board of trustees include academics and researchers, human rights specialists, media and communications experts, asylum workers, refugees, policy analysts and students.

2.2 The organisation is independent of any political ideology, economic interest or religion. We believe in the indivisibility of human rights and are united by our aim to defend the rights of some of the world's most vulnerable individuals.

2.3 Further information is available on our website: www.refugee-rights.eu.

3. Racial discrimination against refugees and displaced people in Belgium

- 3.1** The UN Declaration of Human Rights enshrines the rights of all peoples, regardless of nationality, race, gender, or sexuality, to live in dignity and safety, including the right to decent housing, healthcare and to be protected from violence and ill-treatment¹.
- 3.2** However, the experience of refugees and displaced people in Belgium, the majority of whom are from Middle Eastern and African backgrounds, including Syria, Afghanistan, Eritrea and Sudan, are being consistently denied their rights to health and safety by Belgian authorities, including facing police violence, a lack of shelter and limited access to health care facilities².
- 3.3** At the same time, the securitisation of Europe's borders has resulted in the denial of many individuals' right to claim asylum, as enshrined in the 1951 Geneva Convention. The situation for Belgium and France also needs to be seen within the context of the juxtaposed border arrangements with the UK, where UK border officials check freight and passengers before they cross the Channel³. There are multiple police operations taking place at the UK-France-Belgium border under these arrangements, namely the so-called 'Operations Médusa', with coordinated attempts by these three countries to intercept and dissuade displaced peoples attempting to board lorries or boats to travel to the UK⁴. In the past, displaced people have attempted the crossing via the northern French ports of Dunkirk and Calais, but as port security was heightened, they have been increasingly forced to travel via Belgium.
- 3.4** In Belgium, there is a general belief amongst displaced people that their chances of being granted asylum are higher in the UK, and therefore many individuals have not claimed asylum. This makes them ineligible for shelter and means that many people end up sleeping rough in Maximilian Park, Gare du Nord and the surrounding area. The Belgian Interior Minister and the Immigration Minister have made clear their view that the state cannot take any responsibility when individuals do not claim asylum on Belgian territory⁵.
- 3.5** RRE has documented incidences of racial discrimination occurring against refugees and displaced populations in Belgium, including dehumanising and violent police tactics being used against displaced people in Maximilian Park⁶. See the Annex for an example.
- 3.6** There is moreover, evidence to suggest that racial discrimination occurs across several layers of Belgian administrative institutions. The article, 'Institutional racism within the securitization of migration. The case of family reunification in Belgium' (Orsini, Smit, Farcy & Merla, 2021) has detailed displaced peoples accounts of their experiences of racism in dealing with the Belgian public administration, contrasting accounts between white and Black people. The

¹ United Nations (1948) 'Universal Declaration of Human Rights', available at: <https://www.un.org/en/about-us/universal-declaration-of-human-rights>

² Refugee Rights Europe (2018) 'Left In Between', available at: https://refugee-rights.eu/wp-content/uploads/2018/09/RRE_LeftInBetween.pdf

³ Welander et al (2019) 'Britain's Juxtaposed borders: The Human Consequences', available at: <https://www.law.ox.ac.uk/research-subject-groups/centre-criminology/centreborder-criminologies/blog/2019/09/britains>

⁴ During one such operation taking place by Belgian authorities, a two year old girl, Mawda Shawri was shot and killed, which led to the uncovering of these coordinated police operations: [Mawda : les zones d'ombres d'une « opération Médusa » \(parismatch.be\)](https://www.parismatch.be)

⁵ Financial Times (2018) 'Belgium's migrant crisis exposes EU asylum gap', available at: <https://www.ft.com/content/4848628a-0831-11e8-9650-9c0ad2d7c5b5>

⁶ Refugee Rights Europe (2019) 'No Way Forward, No Way Out', available at: <https://refugee-rights.eu/wp-content/uploads/2019/12/Belgium-2019-v3-web.pdf>

following case study is one such example: *“Félicité, a 32-year old Congolese woman, arrived in Belgium in 2012 after completing her studies in France. She did so with a student residence permit valid to circulate within Schengen, joining her father who had arrived in the country in 2002 as a refugee and had since acquired the Belgian nationality. Félicité had asked for a 5-year residence permit linked to her father’s residency when police officers checked her residence: “Two police officers [came] to check [the address]. We had not been warned that they would come [so that] I was still sleeping [when they arrived]. They asked [...] if his house was big enough to accommodate another person. They also inquired into [my father’s] income, [his] pay checks and [...] my diplomas”. Bob’s experience of the same control differs significantly from Félicité’s. This 29-year old (white) US citizen arrived in Belgium in 2013 with a student visa and then fell in love with a German....the decision to register as legal cohabitants was meant to allow Bob – who at the time was residing illegally in Belgium – to obtain his 5-year residence permit and remain in the country. This is how he recalls the same control Félicité went through: “The [police] just comes to see if you [...] live where you are registered. [...] I was there, I was kind of unemployed at the time and I said: ‘Do you want to come in, have a coffee? Do you want to see my room?’ They said: ‘No, we believe you!’ [...] And that was it.”⁷*

3.7 Below, we provide further detail on the various forms of racial discrimination that take place against refugees and displaced people in Belgium, based on our own independent field research, displaced persons’ testimonies, civil society reports, and RRE’s desk research.

4. Police violence

4.1 Police violence against refugees and displaced people in Europe has been widely documented. In 2018, RRE field research documented several cases of police violence and received disconcerting reports of unconventional forms of abuse⁸. For instance, respondents claimed that police would sometimes inject displaced people at the police station with sedatives that caused side-effects, such as mental health issues and prolonged drowsiness. Individuals were issued no medical records of what substances had been injected and those administering the doses did not check whether individuals might be allergic or intolerant to the substance, which raises serious health and safety concerns. These kinds of practices appear to contravene Article 5 of the UDHR, and individuals’ right to bodily integrity.

4.2 A 26-year-old Sudanese man recounted his interaction with the police: “I got beaten by police when I was in the station and in the park.” Other respondents, including female interviewees, reported that the police had taken them “underground” and made them take off their clothes. One 17-year-old Eritrean girl had allegedly been arrested, placed in handcuffs and made to ‘go underground’ at very cold temperatures.

4.3 A 16-year-old Eritrean boy similarly commented on the extent of police violence, reporting that he had been ‘grabbed’ by police and that two of his friends had been detained while walking to the train station.

⁷ Giacomo Orsini, Sarah Smit, Jean-Baptiste Farcy & Laura Merla (2021) ‘Institutional racism within the securitization of migration. The case of family reunification in Belgium,’ *Ethnic and Racial Studies*, DOI: 10.1080/01419870.2021.1878249

⁸ Refugee Rights Europe (2018) ‘Left In Between’, available at: https://refugee-rights.eu/wp-content/uploads/2018/09/RRE_LeftInBetween.pdf

- 4.4** The local host of a group of young Ethiopian asylum seekers recounted an episode of police violence endured by one of her wards: “About twelve days ago, he found himself without a ticket on board a train with four friends. Following a ticket inspection, three policemen in plain clothes arrived. The young people were taken to the toilets, where they had to take turns undressing themselves – permitted only to keep their underwear on – while their clothing was ‘searched’. One of the policemen found a small kitchen knife in A’s pocket. He grabbed him by the throat and started to strangle him. A. explained to me that he could not breathe. Then, the policeman hit him by the mouth with his fist and told him “if I see you again, I will kill you”.”⁹
- 4.5** RRE partners have also highlighted ongoing concerns around the use of police violence during deportation proceedings. Vluchtelingenwerk Vlaanderen reports that it is often difficult to maintain contact with failed asylum seekers following repatriation¹⁰. The circumstances of their repatriation and the treatment they receive during the process are therefore difficult to ascertain. Even so, there are concerning reports of excessive force employed by police during forced returns¹¹.
- 4.6** The following case studies illustrate these circumstances: One example is a young Ethiopian who was removed over the course of the year 2019 and who recounted the story of his deportation over the phone to his host. Taken one early morning from his room in the centre at 127 Bis in Brussels, he was sedated and his hands and feet were tied up, he was gagged and hooded during most of the journey. His restraints were only loosened several hours later.
- 4.7** A further example is G., Kurdish, who resisted twice against his removal to Romania. During the second attempt, the police officers hit him with batons. In accordance with the account he provided over the telephone, he still bore marks of the blows several weeks later. He asked to be seen by the centre’s doctor, who refused. Without a solicitor, he has not been able to file a complaint about this mistreatment.

5. Citizen violence

- 5.1** Whilst the levels of citizen violence were reportedly very low among displaced people in Brussels (12.6%), according to Refugee Rights Europe’s research respondents in and around Maximilian Park in 2018, compared to other research locations across Europe, some of the respondents cited physical and verbal attacks as reasons for not feeling safe in Brussels¹².
- 5.2** Among the 12.6% who had experienced citizen violence, 85.7% of cases involved verbal abuse, often in the form of racial slurs. One 55-year-old man from Kuwait told researchers: “When I was in a train, a passenger said, ‘what are you doing here in my country? Get out of here!’” Several refugees reported similar experiences. A Sudanese man noted, “I’ve been in many

⁹ Refugee Rights Europe (2019) ‘No Way Forward, No Way Out’, available at: <https://refugee-rights.eu/wp-content/uploads/2019/12/Belgium-2019-v3-web.pdf>, p. 13.

¹⁰ Refugee Rights Europe (2019) ‘No Way Forward, No Way Out’, available at: <https://refugee-rights.eu/wp-content/uploads/2019/12/Belgium-2019-v3-web.pdf>

¹¹ Ibid.

¹² Refugee Rights Europe (2018) ‘Left In Between’, available at: https://refugee-rights.eu/wp-content/uploads/2018/09/RRE_LeftInBetween.pdf, p. 12.

cities in Europe, but I feel that I have had the worst experience in Brussels. Where I sleep, people throw garbage at me from the building and say racist things.”

5.3 Meanwhile, a 22-year-old Eritrean man recounted, “I experienced racism in the bus station and when I was in a residential area unknowingly.” A 23-year-old from Sudan said that he had been woken up in the park and insulted, and several men reported that they had been verbally abused by young people in the street.¹³

6. Effective remedy for racial discrimination and violence

6.1. Recommendation 12 (a) in the CERD’s Concluding Observations on the 16th to 19th periodic reports of Belgium (2014)¹⁴ states that the Belgian authorities should “Ensure that all victims of racially motivated violence, including undocumented migrants, can lodge complaints effectively without fear of reprisals”. Many refugees and displaced people fear deportation should they report a crime. In a recent report by the European Commission against Racism and Intolerance (ECRI), while they welcome the progress that has been made among Belgian service providers who have set up a number of ‘firewall mechanisms’ to ensure that displaced people were able to access health care and education without fear of deportation, ECRI states that there are still cases in which service producers are reporting those who access their services to authorities¹⁵.

6.2. Recommendation 12(b) in the Concluding Observations, to “ensure that all allegations of racially motivated acts are thoroughly, promptly and impartially investigated, and perpetrators prosecuted and sanctioned as appropriate, including by disciplinary measures” would moreover appear to be lacking in many incidences. Across Europe, incidents of police violence against refugees and displaced people have been widely reported, with police responsibility for such violent anti-migration border operations often minimised or denied.

6.3. The case of Mawda Shawri, a two-year-old Kurdish Iraqi girl killed by a policeman’s bullet in May 2018, is widely held as an example of the discrimination and bias directed towards the displaced community. In the case, the court concluded that the white policeman had committed ‘involuntary manslaughter’ and was granted a 12-month suspended sentence, while the Kurdish man accused of driving the van with Mawda inside was sentenced to four years in prison despite a lack of evidence pointing to his implication in the incident.¹⁶ The treatment of the family at the hands of the Belgian police at the time of the shooting – including excessive use of force, detention and an order for removal from the country – has been labelled as a form of racial discrimination by the family’s lawyer, and yet the court refused to hand down a judgement on this issue in its verdict on the incident. The death of Mawda Shawri and the judiciary’s response to the case has been widely reported as an example of racial discrimination against several members of the Kurdish community seeking asylum in Europe.

¹³ Refugee Rights Europe (2018) ‘Left In Between’, available at: https://refugee-rights.eu/wp-content/uploads/2018/09/RRE_LeftInBetween.pdf, p. 12.

¹⁴ CERD (2014) ‘Concluding observations on the 16th to 19th periodic reports of Belgium: Committee on the Elimination of Racial Discrimination’, available at: <https://digitallibrary.un.org/record/772799?ln=en>

¹⁵ Council of Europe (2020), ‘ECRI Report on Belgium’, available at: <https://rm.coe.int/ecri-sixth-report-on-belgium-/16809ce9f0>

¹⁶ <https://irr.org.uk/article/mawda-shawri/>

- 6.4.** In the events immediately after the shooting, there were also a number of concerning narratives of blame pointing to Mawda’s parents that were presented by authorities including police officers and the Procureur of Mons, that could be considered as amounting to systemic racial stereotyping and discrimination against displaced people¹⁷. The implication of State authorities in the misinformation around Mawda’s death and the false statements issued have been labelled as indicative of country-wide attempts to excuse or legitimise police violence against displaced people, and to criminalise people without papers.¹⁸
- 6.5.** Recommendation 12 (c) of the Concluding Observations recommended that the State parties “Reinforce the independence and effectiveness of the mechanism for lodging complaints against police officers.” As detailed in 5.1 above, many refugees and displaced people feel unable to make complaints against police violence experienced, due to fear of reprisals and/or affecting their asylum claim. Based on our own field research and desk research, RRE has found little evidence of effective remedy being provided to refugees and displaced people who experience police violence¹⁹.
- 6.6.** In addition, ECRI report that there is more work to be done on monitoring incidents of discrimination against displaced people, and advise that sufficient funding is provided to the existing committee responsible for monitoring anti-discrimination laws, such that they are able to effectively uphold the rights of displaced people²⁰.
- 6.7.** The report additionally notes that “no independent body set up to guard against discrimination on the grounds of language despite the fact that the establishment of such a body is provided for by the relevant legislation”.

7. The detention of refugees and displaced people

- 7.1** According to the previous recommendation made by the CERD in its Concluding Observations, the “State party ensure that non-custodial measures are used whenever possible and that detention of asylum seekers at borders is used as a measure of last resort.” However, based on our independent field research and reports by Belgian civil society networks, the detention of refugees and displaced people in Belgium does not appear to be being used a last resort, and such incidents are also often violent in nature²¹.
- 7.2** Beginning in August 2015, Belgian authorities began to exempt from detention asylum applicants with a high chance of receiving protection status, e.g. Syrians, and those with particular vulnerabilities, assigning them instead to special NGO reception sites²². However, no vulnerability assessment is carried out before detaining asylum seekers at the border or within Belgium. While Article 7 of the Aliens Act stipulates that detention should be used only when less coercive measures are exhausted, judges who oversee cases of migrant detention

¹⁷ [Mawda Shawri - When truth, justice and humanity are in short supply - Institute of Race Relations \(irr.org.uk\)](http://www.irr.org.uk)

¹⁸ [« J’ai honte pour notre Etat de droit... » : une opinion de Michel Bouffieux \(parismatch.be\)](http://www.parismatch.be)

¹⁹ Refugee Rights Europe (2019) ‘No Way Forward, No Way Out’, available at: <https://refugee-rights.eu/wp-content/uploads/2019/12/Belgium-2019-v3-web.pdf>

²⁰ Council of Europe (2020), ‘ECRI Report on Belgium’, available at: <https://rm.coe.int/ecri-sixth-report-on-belgium-/16809ce9f0>

²¹ Refugee Rights Europe (2019) ‘No Way Forward, No Way Out’, available at: <https://refugee-rights.eu/wp-content/uploads/2019/12/Belgium-2019-v3-web.pdf>

²² AIDA, Belgium National Country Report – December 2015, p. 62.

are limited to checking whether detention is strictly legal²³. They are not tasked with determining whether the vulnerability of the detainee was taken into consideration or whether alternatives existed. This limited mandate stands in contrast to that of the same judge reviewing the detention of a Belgian national in prison. As noted by a representative from Vluchtelingenwerk Vlaanderen, “You can come before the same judge but in one case the judge can take into consideration your health and the opportunities to avoid detention. In immigration cases, the same judge can only check the legality—whether it was made in the right manner, whether the articles were followed, even though the law stipulates that detention should only occur if all other options are exhausted.”

- 7.3** In interviews with displaced people conducted by RRE in Brussels in 2018, 54% of respondents reported having been arrested or detained during their stay in Belgium. A large percentage of the respondents had been subjected to physical and verbal abuse by police. This often took the form of intimidation tactics, in an attempt to uproot people from their sleeping places. Respondents also stated that the police frequently confiscated their belongings including shoes, clothes, money and phones. Some respondents were under the impression that the police can arrest and detain “without reason”. A number of interviewees stated that individuals provide false names when detained due to fear. This leads to further complication as local charities and friends are thus unable to trace and help said individuals.
- 7.4** One Sudanese minor told researchers that his brother had been detained for approximately four months. He did not know where his brother was being held or how he could contact him. A 16-year-old Eritrean similarly described that he had witnessed the Belgian police detaining people in unknown locations and that people could go missing for several weeks and sometimes months. This was confirmed by numerous Sudanese respondents.
- 7.5** Other interviewees added that when the police release individuals from detention, they often do this at night and in locations that are far away from the Brussels city centre, putting these individuals in a highly vulnerable situation.
- 7.6** Within the detention centres, dubbed “theatres of violence,” by la Plateforme Citoyenne de Soutien aux Réfugiés²⁴, there are worrying reports of the authorities employing racist and hateful language against detainees, hitting and slapping them and placing them in solitary confinement. These incidents are underreported because asylum seekers fear retaliation.
- 7.7** The story of A., a Sudanese man, illustrates the violence: “A. was arrested in Belgium in January 2019 and placed in the Bruges centre. He has not had his fingerprints taken anywhere. Two other Sudanese men who arrived in Bruges at the same time are in the same situation. On his arrival in the centre, A. is summoned to an assistant who explains to him that because he does not have fingerprints, he will have to claim asylum in Belgium from the centre. A., who is aware of the manner in which asylum claims are processed through the closed centre (very low chance of success, no support, etc.), refuses. He leaves the office and returns to his room (shared room for six, linked to a common room). Two guards come to fetch him and tell him that he is expected for his asylum claim interview (by videoconference, with an officer

²³ As stipulated in Art. 72(2) of the Aliens Act.

²⁴ Refugee Rights Europe (2019) ‘No Way Forward, No Way Out’, available at: <https://refugee-rights.eu/wp-content/uploads/2019/12/Belgium-2019-v3-web.pdf>, p. 15.

from the Foreigners Office (l'Office des Étrangers) based in Brussels). He refuses. The guards call for backup. Six guards try to take him to the interview room but A. resists. He is beaten and during the assault one of the guards twists or breaks his wrist. A. is taken to a cell and the guards threaten the two other Sudanese men with the same treatment, if they do not accept to go to the asylum interview. They therefore accept. A. is left in the cell for 48 hours (maybe more) and does not receive any care for his wrist, which is swollen and painful. He is not authorised to file a complaint about his injury, under the pretext that it is the weekend and neither the doctor nor the director are present. In the days that follow, he requests a medical consultation and is eventually attended to by the medical assistant, who records his request and declares that he has hurt himself during a football match. Finally, he is examined by the doctor with a fellow detainee who acts as a translator. During the medical consultation, the doctor gets annoyed with A., asking him to move his hand. The doctor grips A.'s hand and moves it by force. A. moves due to the pain and the doctor hits him in the face violently with the flat of his hand. A. falls off his chair. The episode is overheard by guards and other detainees in the waiting room. The guards, who think A. has hit the doctor, rush in and when they discover the situation they laugh and make fun of A."

8. The situation for unaccompanied minors

8.1 The lack of legal migration routes to Europe forces children to take perilous risks and to entrust their lives to smugglers, who are often members of criminal networks. There is disturbing evidence of abuse and exploitation of minors, especially of girls, in the hands of these criminal organisations. Once they arrive in Belgium, unaccompanied minors, while legally exempt from detention, face their own struggles as they attempt to navigate the opaque asylum system. A 15-year-old girl from Angola expressed her frustrations with the process in a report for UNICEF: "The asylum procedure is difficult to understand. It's a difficult issue. Some young people have been here for four or five months and others for much longer, before receiving an answer: positive or negative. Why? Why do some people receive the decision more quickly? We would like there to be more clarity right from the start, as soon as we arrive. It would be clearer and we could start our lives."²⁵

8.2 Unaccompanied minors are held in reception centres rather than detention facilities. However, they nonetheless struggle to adapt to the crowded and sometimes violent surroundings. An 18-year-old boy from Syria recalled his experiences being housed in a large reception centre: "Many things were difficult in the centre where I was living: the food, four people in the room, being far from home, the racism. My centre was very far away. Everything was far. You had to walk for five kilometres to go to the shop. There were four people from different countries in the room. We were all very different. We didn't eat the same thing, we didn't speak the same language. I don't speak English"²⁶.

8.3 There are further alarming reports of police putting individuals in detention without first verifying their age, a practice which, according to Vluchtelingenwerk Vlaanderen, appears to be frequently employed with Sudanese boys²⁷. Vluchtelingenwerk Vlaanderen also reports

²⁵ UNICEF Belgium (2018) 'The voice of migrant and refugee children living in Belgium. What do you think?', available at: <https://emnbelgium.be/sites/default/files/publications/wdyt-ENG-Final%20%282%29.pdf>

²⁶ Ibid.

²⁷ Refugee Rights Europe (2019) 'No Way Forward, No Way Out', available at: <https://refugee-rights.eu/wp-content/uploads/2019/12/Belgium-2019-v3-web.pdf>

that police often apprehend minors on trains or during attempts to board boats, and rather than following legal protocols that would grant minors guardianship and access to services until the age of 18, they just put them back on the streets.

9. Annex: Photo by Anonymous

