

**SUBMISSION TO THE  
UN HUMAN RIGHTS COMMITTEE  
145TH SESSION, 2-19 MARCH 2026  
LIST OF ISSUES PRIOR TO REPORTING - BELGIUM**

by The Federal Migration Centre - MYRIA

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# INTRODUCTION

Myria, the Federal Migration Centre, is an independent public institution. Myria's legal mission is to inform the public authorities about the nature and scale of migration flows, to ensure respect of the fundamental rights of foreigners and to promote the combat against human trafficking and smuggling. Myria has also been designated as the independent national rapporteur on human trafficking.

Myria is also mandated as a specialized institution under the national preventive mechanism (NPM) at the federal level within the framework of the Optional Protocol to the Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment (OPCAT). Myria collaborates closely with the Federal Institute for the protection and promotion of Human Rights, the Central Prison Monitoring Council, and the Standing Police Monitoring Committee.

Myria submits this contribution to the United Nations Human Rights Committee, ahead of its adoption of the List of Issues Prior to Reporting for Belgium's seventh periodic report under the International Covenant on Civil and Political Rights. This submission highlights several key concerns that fall within the mandate of our institution regarding the implementation of the International Covenant on Civil and Political Rights in Belgium. This submission can be published.

## 1. FOLLOW-UP TO THE SIXTH PERIODIC REVIEW

Several of the recommendations made in the Committee's 2019 Concluding Observations remain at least partly unimplemented. In particular, Myria expresses concern about insufficient progress regarding:

### **Non-discrimination and violence against women (Concluding Observations §23-24)**

The fear of being detained and removed is a real obstacle to the filing of complaints by persons with irregular residence status, notably for women who are victims of (domestic) violence. The Immigration Office has made an informal commitment not to detain foreigners who voluntarily report to the police to file a complaint<sup>1</sup>, but there is still no legal guarantee.

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<sup>1</sup> MYRIA, [Myriadoc Être étranger en Belgique en 2016 \(Being a foreigner in Belgium in 2016\)](#), pp. 28-31.

## **Refugees, asylum seekers and non-refoulement (Concluding Observations §30)**

### *Detention of migrants, in particular migrants/applicants for international protection at the border*

All persons who apply for international protection at the border are systematically arrested and detained<sup>2</sup>, without individual assessment of the necessity of their detention and the possibility of alternatives to detention.

In general, migrants can still be detained in Belgium for migration purposes.

### *Detention of migrant children*

Since 20 July 2024, the prohibition of the detention of children in closed centres has been anchored in law.<sup>3</sup> Less than a year later, however, the new Minister for Asylum and Migration indicated that this prohibition could be reconsidered during the current legislative term.<sup>4</sup>

Furthermore, the new law does not guarantee the preservation of the family unity: the detention of an adult member of the household remains possible. The best interests of the child must nevertheless be taken into account in decisions concerning the return of the parents. It should be noted that families with minor children can still be placed in return centres, and unaccompanied minors whose age is disputed may be detained during the age assessment procedure.<sup>5</sup>

### *Statelessness*

A new law was adopted on February 22, 2024, creating a new right of residence for stateless persons. However, this new procedure has been criticized by several organizations and institutions such as the UNHCR<sup>6</sup>, the Nansen Association with the European Network on Statelessness<sup>7</sup>, and the Council of State<sup>8</sup>. Myria has also commented the new law<sup>9</sup>.

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<sup>2</sup> NANSEN Contribution 2021/3, "[Against the systematic detention of asylum seekers at the border](#)", Towards a migration code? Contribution to the debate, September 2021; [NANSEN note 2025-1, "International protection procedure and detention at the border"](#).

<sup>3</sup> [Law amending the Law of 15 December 1980 on the access to the territory, residence, establishment and removal of foreigners and the Law of 12 January 2007 on the reception of asylum seekers and certain other categories of foreigners on proactive return policy](#), MB 20 July 2024.

<sup>4</sup> The De Wever government agreement provides for maintaining the ban in the law but adds that "this law will be evaluated after two years" ([Government Agreement 2025-2029](#), p. 180).

<sup>5</sup> According to Article 41 §1 of the Law of 12 January 2007 on the reception of asylum seekers, age verification must be carried out within three working days of arrival at the border, and this period may exceptionally be extended by a further three working days. In practice, Myria observes that many unaccompanied minors stay in closed centres for a relatively long period of time (MYRIA, [Contribution Myria – Preparations for the Migration Code](#), pp. 69-70).

<sup>6</sup> HCR, [Commentaires du Haut Commissariat des Nations Unies pour les réfugiés relatifs au projet de loi modifiant la loi du 15 décembre 1980 sur l'accès au territoire, le séjour, l'établissement et l'éloignement des étrangers concernant la demande d'admission au séjour pour apatriodie \(3600/001\)](#), 5 décembre 2023 « Commentaires du HCR ».

<sup>7</sup> Nansen et Réseau européen pour l'apatriodie, [Avis conjoint sur le projet de loi modifiant la loi du 15 décembre 1980 en vue de régler le droit de séjour des apatrides](#), décembre 2023.

<sup>8</sup> Conseil d'État, [Avis n° 73.287/4 du 8 juin 2023](#), Doc. Ch. 55, n° 3600/1

<sup>9</sup> Myria, [La migration en chiffres et en droits 2024 | Protection internationale](#), novembre 2024, p. 20 et s.

The main criticisms concern the introduction of numerous conditions that are disproportionate both in substance and in terms of the taking into consideration of an application, in particular the condition of having previously had legal residence on Belgian territory, which will therefore force stateless persons to apply for asylum before they can apply for residence as stateless persons<sup>10</sup>. Furthermore, the new regulations introduce unjustified differences in treatment between stateless persons and refugees<sup>11</sup>.

### **Conditions of detention (Concluding Observations para. 34)**

For several decades, Belgian prisons have faced structural overcrowding, resulting in multiple findings of violations of the European Convention on Human Rights (ECHR) by the ECtHR.<sup>12</sup> This issue has further deteriorated in recent years. In December 2024, the Committee of Ministers of the Council of Europe called upon Belgium to take "*all required measures to resolve the problem of prison overcrowding everywhere and to put an end to the use of mattresses on the floor.*"<sup>13</sup> It was explicitly emphasised that Belgian authorities should "*focus their efforts on achieving a sustainable reduction in the prison population*", rather than on increasing capacity.<sup>14</sup>

The 2025–2029 Federal Government Agreement<sup>15</sup> and the policy note of the Minister of Justice<sup>16</sup> provides for several measures to reduce overcrowding in Belgian prisons, including:

- the forced return of foreign prisoners to their country of origin, other EU countries, or countries that have concluded a return agreement with Belgium;
- allowing convicted persons to serve their sentence in their country of origin;
- building or renting prisons abroad, following the example of other European countries.

Myria welcomes the government's willingness to look for solutions to prison overcrowding, but it also warns of the risks that these measures pose to the rights of persons in detention<sup>17</sup>:

- The forced return of detained persons to their country of origin may expose some to inhuman or degrading treatment or violate their right to privacy and family life.

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<sup>10</sup> *Ibidem*, pp. 23-24.

<sup>11</sup> *Ibidem*, pp. 25-26.

<sup>12</sup> See the Vasilescu group of decisions: ECtHR, [Vasilescu v. Belgium](#), n° 64682/12, 25 November 2014 ; [Sylla v. Belgium](#), n° 37768/13, 16 May 2017 ; [Nollomont v. Belgium](#), n° 36467/14, 16 May 2017 ; and [Pîrjoleanu v. Belgium](#) (decision), n° 26404/18, 16 March 2021.

<sup>13</sup> Committee of Ministers of Council of Europe, [Decision in Vasilescu v. Belgium](#) (Application No. [64682/12](#)), 1514th Meeting, 3-5 December 2024.

<sup>14</sup> *Ibidem*.

<sup>15</sup> Federal government, [Coalition agreement 2025-2029](#), pp. 160-161.

<sup>16</sup> Chambre des représentants, [Note de politique générale Justice](#), 22 avril 2025, pp. 49-50.

<sup>17</sup> See: NPM, CCSP and Myria, [ÉLOIGNEMENT DES DÉTENUS SANS DROIT DE SÉJOUR : UNE SOLUTION À LA SURPOPULATION CARCÉRALE ? – Préoccupations et points d'attention du Mécanisme National de Prévention](#), 12 October 2025.

- Numerous practical obstacles make the implementation of these returns difficult and uncertain: lack of identity documents, diplomatic refusal by certain countries, inability to enforce certain decisions.
- The plans to transfer people to prisons abroad raise serious questions about their access to healthcare, access to a lawyer, the preservation of family ties, and more.

## 2. OTHER ISSUES TO BE CONSIDERED FOR THE LIST OF ISSUES PRIOR TO REPORTING

In this section, Myria would like to draw the attention of the Committee to a number of key concerns related to the implementation of the Covenant that were not addressed in the sixth periodic review of Belgium.

### **Right to life and prohibition of torture (article 6 & 7 ICCPR)**

#### *Principle of non-refoulement*

In 2020, the European Court of Human Rights condemned Belgium for violating Articles 3 and 13 of the Convention (removal without sufficient examination of the risks involved and in disregard of an interim court decision ordering the suspension of the expulsion).<sup>18</sup> Following this ruling, the Immigration Office set up a unit dedicated to the application of Article 3 of the ECHR in the context of returns.<sup>19</sup> However, the current regulations still do not require that every return decision must contain specific grounds for the absence of a risk of violation of Article 3 of the Convention.

The law must also be amended to ensure that any defensible claim concerning the risk of refoulement is examined in the context of an effective remedy with automatic suspensive effect.

#### *Arbitrary arrests*

Belgium has already been condemned by the European Court of Human Rights for using deception and misleading tactics in the context of operations to arrest people residing illegally on its territory.<sup>20</sup> Several investigating courts have denounced such illegal practices by the Belgian authorities when summoning individuals in Dublin proceedings.<sup>21</sup>

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<sup>18</sup> ECHR, [M.A. v. Belgium](#), No. 19656/18, 27 October 2020.

<sup>19</sup> Report on Belgium's action in compliance with the judgment of the European Court of Human Rights in *M.A. v. Belgium*, [DH-DD\(2025\)602](#), 22 May 2025.

<sup>20</sup> ECHR, [Conka v. Belgium](#), No. 51564/99, 5 February 2022.

<sup>21</sup> CMA Brussels, 11 March 2025, K/799/25; CMA Brussels, 22 April 2025, K/1342/25; CMA Liège, 8 May 2025, 2025/ET/37.

## *Migrants/applicants for international protection at the border*

As already mentioned in the follow-up section, all persons who apply for international protection at the border are systematically arrested and detained<sup>22</sup>, without individual assessment of the necessity of their detention and the possibility of alternatives to detention.

In June 2024, the new law on "proactive return policy"<sup>23</sup> introduced the possibility of conducting forced medical examinations for the purpose of removal, a provision that is problematic in terms of human dignity and medical ethics.

## **Right to effective remedies in expulsion cases & Right to a fair trial (article 13 & 14)**

### *Monitoring the administrative detention of foreigners*

Foreigners may be detained for several months in closed facilities without a final decision on the legality of their detention. The judicial appeal procedure against administrative detention does not offer the same procedural guarantees as those applicable to suspects in pre-trial detention in prisons.<sup>24</sup> Belgian legislation has not been amended to implement the *Makdoudi and Saqawat* judgments by the European Court of Human Rights.<sup>25</sup>

The appeal procedure against removal decisions must also be revised to provide for full judicial review with automatic suspensive effect<sup>26</sup>, in accordance with the case law of the CJEU.<sup>27</sup>

Furthermore, there is no specific legal remedy against the conditions of arrest and detention, and the complaints mechanism is inadequate and subject to criticism.<sup>28</sup>

### *Effective remedies in immigration law*

The competent court in this area<sup>29</sup> often has only limited jurisdiction to review the annulment of the administrative act, which undermines the effectiveness of appeals (e.g. against decisions to refuse a residence permit for medical reasons<sup>30</sup> or against decisions to return a person to

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<sup>22</sup> NANSEN Contribution 2021/3, "[Against the systematic detention of asylum seekers at the border](#)", Towards a migration code? Contribution to the debate, September 2021; [NANSEN note 2025-1, "International protection procedure and detention at the border"](#).

<sup>23</sup> [Law amending the Law of 15 December 1980 on the entry, stay, establishment and removal of foreigners and the Law of 12 January 2007 on the reception of asylum seekers and certain other categories of foreigners on proactive return policy](#), MB 20 July 2024; MYRIA, [Myriadoc Return, detention and removal in 2021](#), pp. 123.

<sup>24</sup> MYRIA, [Myriadoc Return, detention and removal in 2021](#), pp. 36; Myria, [Myriadoc Return, detention and removal in 2022](#), pp. 25-26.

<sup>25</sup> FIRM and Myria, [Communication of 24 March 2022 concerning the enforcement of the judgments Makdoudi v. Belgium and Saqawat v. Belgium](#), pp. 2-10.

<sup>26</sup> MYRIA, [Myriadoc Return, detention and removal in 2021](#), pp. 30, MYRIA, [Myria contribution – Preparations for the Migration Code](#), pp. 41, June 2021.

<sup>27</sup> See CJEU, LM v. CPAS de Seraing, 30 September 2020, § 38-39

<sup>28</sup> MYRIA, [Recommendations – The complaints system](#), 1 January 2021.

<sup>29</sup> The Council for Alien Law Litigation.

<sup>30</sup> Decisions to refuse residence on the grounds of medical reasons referred to are those taken pursuant to Article 9ter of the Aliens Act. This extension could also be applied to Amend the Aliens Act to give the court

their country of origin (see 3.2.1. – non-refoulement)). The processing time for appeals before this court is often too long due to the backlog of cases.

#### *Independence of the judiciary and the judges*

In their coalition agreement, the current government provides for the possibility of reforming the Council for Alien Law Litigation<sup>31</sup>. According to dozens of specialists in public law and migration law from several Belgian universities<sup>32</sup>, this reform could undermine the separation of powers and the independence of judges. Three of the most significant measures are: the appointment of temporary judges (instead of lifetime appointments), the possibility for the administration and the Belgian state (but not for the foreign national who is also a party to the proceedings) to request the convening of a general assembly of judges, and the integration of the Council into the administration (Public Federal Service Migration).

### **Prohibition of slavery (article 8)**

#### *Human trafficking and labour*

Despite the efforts of the authorities, particularly in terms of training, the detection and protection of underage victims of human trafficking (particularly unaccompanied foreign minors) remains problematic.<sup>33</sup>

### **Systematic non-execution of court decisions by Belgian authorities related to the right to reception for applicants of international protection (article 2 (3), 3, 7 and 14)<sup>34</sup>**

Authorities' failure to enforce court rulings is a serious problem in Belgium, undermining the fundamental principles of the rule of law. This problem has become particularly visible since 2021, in the so-called "reception crisis". More than 10,000 court decisions that required the federal state to provide decent reception conditions for applicants for international protection have not been executed by the relevant authorities. This practice led to Belgium being

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full jurisdiction in cases of family reunification, for example, or for appeals against a removal decision if the removal decision is likely to infringe the fundamental rights of the foreign national, in particular the right not to be subjected to torture or inhuman or degrading treatment; MYRIA, [Myriadoc humanitarian and medical regularisation in 2022](#), pp. 20; Myria, [Press release, Medical regularisation: Myria and the Federal Institute for Human Rights demand effective recourse for seriously ill foreign nationals](#), 24 April 2024.

<sup>31</sup> Federal government, [Coalition agreement 2025-2029](#), pp. 182-183.

<sup>32</sup> La Libre Belgique, [Inédit, inouï et inconstitutionnel : le gouvernement fédéral veut-il influencer les décisions des juges ? - La Libre](#), 26 February 2025

<sup>33</sup> MYRIA, [RAPPORT ANNUEL TRAITE ET TRAFIC DES ÊTRES HUMAINS 2025 « VICTIMES : LES VOIR, LES ÉCOUTER » | MYRIA](#) ; MYRIA, [Annual Evaluation Report 2022, Human Trafficking and Smuggling, Trapped by Debt; Annual Evaluation Report 2023 Human Trafficking and Smuggling: A Chain of Responsibility](#).

<sup>34</sup> Section taken from the submission to the Committee from Federal Institute for the Protection and Promotion of Human Rights (FIRM-IFDH), p. 11.

condemned in 2023 by the ECtHR, which found a systematic failure to enforce final court decisions.<sup>35</sup>

As a result, applicants entitled to reception remained destitute<sup>36</sup>. This lack of reception facilities has indeed serious consequences for the mental and physical health of applicants for international protection, as it has been widely documented in various reports by civil society organizations to which we refer.<sup>37</sup>.

Structural non-execution of court decisions by the regional and federal governments in Belgium poses a systemic threat to the credibility of democratic institutions and the rule of law, endangers trust in the justice system, and weakens the protection of human rights.

## Right to privacy and family life (articles 17 and 23)

### *Family reunification*

The right to family reunification has been significantly restricted following recent legislative changes<sup>38</sup> (increase in required resources, shortening of the exemption period, waiting periods). These new rules undermine the right to private and family life<sup>39</sup>.

In addition to these legal restrictions, family members who wish to exercise their right to family reunification face limitations due to the complexity of the procedure and the many practical obstacles they face<sup>40</sup> (use of a specialised service<sup>41</sup>, in-person application at the diplomatic posts<sup>42</sup>, procedural costs<sup>43</sup>, etc.).

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<sup>35</sup> ECtHR, 18 July 2023, [Camara v. Belgium](#), No. 49255/22.

<sup>36</sup> Myria and FIRM-IFDH, [Communication to the Committee of Ministers of the Council of Europe concerning the execution of the judgment Camara v. Belgium \(No. 49255/22\)](#), 2 July 2025, p. 11.

<sup>37</sup> See Amnesty International, [Ni logé.e.s, ni écouté.e.s – Les manquements persistants de la Belgique en matière d'accueil bafouent les droits des personnes demandeuses d'asile](#), avril 2025 ; Vluchtelingenwerk Vlaanderen et al., [Politique de non-accueil – Dashboard, Janvier>Décembre 2024](#) ; Médecins du monde, [Rapport trimestriel Hub Humanitaire \(janvier-mars 2025\)](#) ; ECRE, AIDA et Vluchtelingenwerk Vlaanderen, [Country Report – Belgium \(update 2024\)](#), juin 2025, p. 116 et s.

<sup>38</sup> See Law of 10 March 2024 amending the Law of 15 December 1980 on access to the territory, residence, establishment and removal of foreigners in relation to the right to family reunification, M.B., 22 August 2024 and Law of 17 July 2025 amending the Law of 15 December 1980 on access to the territory, residence, establishment and removal of foreigners with regard to the right to family reunification, M.B. 08 August 2025.

<sup>39</sup> MYRIA, Press release: "[The Easter Agreement undermines the right of foreigners to live with their families](#)", 29 April 2025, MYRIA, [Comments sent to members of the government on family reunification for beneficiaries of international protection](#), April 2025 and UNHCR, [Observations of the United Nations High Commissioner for Refugees on the draft law amending the law of 15 December 1980 on the entry, stay, establishment and removal of foreigners with regard to the conditions for family reunification](#), 19 June 2025.

<sup>40</sup> In general, see MYRIA, [Opinion on family reunification for beneficiaries of international protection](#), March 2022.

<sup>41</sup> MYRIA, [Migration in figures and rights, Right to live as a family booklet](#), 2024, p. 20 et seq.

<sup>42</sup> MYRIA, [A year of Belgian practice since the Afrin ruling](#), 2024.

<sup>43</sup> MYRIA, [Migration in figures and rights, Right to live as a family booklet](#), 2023, p. 12 et seq.

### *Home visits & searches for the purpose of arresting undocumented foreigners*

In July 2025, the federal government agreed on a project of Law that would allow home visits & searches for the purpose of arresting undocumented foreigners who pose a threat to public order or national security.

In an opinion issued at the request of the Minister, Myria identified several concerns regarding fundamental rights<sup>44</sup>. Certain conditions essential to guaranteeing respect for fundamental rights continue indeed to be lacking:

- The necessity and proportionality of the home visit measure have not been sufficiently demonstrated;
- the scope of application is too broad and the concepts used are insufficiently precise, which opens the door to arbitrariness;
- the investigating judge's room for maneuver in the proceedings is very limited, thus rendering him or her "instrumentalized";
- the safeguards to protect vulnerable individuals are insufficient;
- several breaches of the right to an effective remedy have been identified.

The draft law on home visits uses a repressive mechanism derived from criminal law without including the corresponding procedural safeguards. As this measure constitutes a serious interference with the right to respect for private and family life and the principle of the inviolability of the home, Myria calls for the conformity with the principles of necessity and proportionality to be (re)examined.

### **Right for every child to acquire a nationality (articles 24)**

Since the summer of 2023, dozens of children of Palestinian origin born in Belgium have lost their Belgian nationality due to a simple change in the national register by the municipal authorities, following a letter sent by the Immigration Office.

In a publication, Myria recalled Belgium's international obligations, in particular to avoid stateless children being born on its territory and to give primary consideration to the best interests of the child<sup>45</sup>.

This practice has continued in some municipalities (practices vary from one municipality to another), and Myria has therefore recently insisted that clearer regulations and instructions that respect fundamental rights be adopted<sup>46</sup>.

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<sup>44</sup> Myria, [Loi sur les visites domiciliaires : des conditions vagues et peu de garanties](#) | Myria, 30 July 2025

<sup>45</sup> Myria, [Les enfants nés en Belgique de parents d'origine palestinienne risquent de perdre leur nationalité belge](#) | Myria, 2 Decembre 2025

<sup>46</sup> VRT, [Des dizaines d'enfants nés de parents palestiniens ont perdu leur nationalité belge : "La législation doit être plus claire"](#), 2 Decembre 2025