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Alternative REPORT

presented to the UN Committee against torture ahead of the consideration of the 4th periodic report of Belgium

71st session
12 – 31 July 2021

OBSERVATOIRE INTERNATIONAL DES PRISONS
I.Care
Centre d'Action Laïque Libres, ensemble
fiacat
belgique acat
LIGUE DES DROITS HUMAINS
DEFENCE FOR CHILDREN INTERNATIONAL BELGIUM
Move Voorbij detentie van migranten Pour en finir avec la détention des migrant·e·s

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Acronyms

ACAT : Action by Christians for the Abolition of Torture
AIG : Inspectorate-General of the Federal and Local Police
CAL : Centre d'Action Laïque
CAT : UN Committee Against Torture
CCSP : Conseil central de surveillance pénitentiaire
CGRA : Commissioner general for refugees and stateless persons
CMC : medical and surgical centre
Commitee P : Permanent Committee for the control of police forces
Comité T : Committee of Vigilance in the field of Counter-Terrorism
CPT : Committee on the Prevention of Torture of the Council of Europe
CPVS : centre de prise en charge des violences sexuelles
DCI-Belgium : Defence for Children International - Belgium
DG-EPI : Directorate General of penal institutions
ECHR : European Convention on Human Rights
ECTHR : European Court of Human Rights
FIACAT : International Federation of ACATs
IFDH : Federal Institute for the Protection and Promotion of Human Rights
IPO-Belgian branch : The Belgian branch of the International Prison Observatory
LDH : Ligue des droits humains
NAP : National Action Plan
NGO : Non-Governmental Organisation
NPM : national prevention mechanisms
OE : Office des étrangers (Belgian federal service responsible for the management of the immigrant population)
OPCAT : Optional protocol to the UN Convention Against Torture
OQT : order to leave the country
SPF : Federal Public Service
SPS : internal prison social service charged with expertise and evaluation
SPT : UN Subcommittee on Prevention of Torture

Introduction

The signatories invite the members of the Committee against Torture to take into account the following information when considering Belgium during its 71st session.

This report presents information on the implementation of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment in Belgium, taking into account the List of issues prior to submission of the fourth periodic report of Belgium and the Belgian State's response. Considering the long time that has elapsed between the submission of these documents and the 71st session, this report also aims to provide the Committee with more up-to-date information, particularly related to the covid-19 crisis.

This report is a **compilation of the contributions of the eight signatory organisations,** all of which have provided **information and recommendations relating to their complementary areas of work and expertise** concerning the implementation of the Convention against Torture and its Optional Protocol. All the information provided in this report has therefore been provided by one or more organisations whose mandate includes the relevant theme.

The signatories are : the **Action by Christians for the Abolition of Torture** (ACAT- Belgium, member of FIACAT), the **Centre d'Action Laïque** (CAL), **Defence for Children International** (DCI) – Belgium, the **International Federation of ACATs** (FIACAT), **I.Care**, the **Human Rights League** (LDH) **Move** and the **Belgian branch of the International Prison Observatory**. Together, they form the OPCAT coalition, which promotes and defends fundamental rights and specifically aims to protect the rights of persons deprived of their liberty by promoting the ratification of the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (OPCAT) and the establishment of an adequate national preventive mechanism in Belgium.

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Presentation of the signatory organisations

ACAT- Belgium (Action by Christians for the Abolition of Torture) is active in various fields of human rights defence and promotion. It brings together individuals who campaign by all possible means against torture, the death penalty and any cruel, inhuman or degrading treatment or punishment. It advocates both in Belgium and abroad. It is part of the international network of ACAT.

The Centre d'Action Laïque (CAL) is a representative body of the French-speaking non-confessional philosophical community. The CAL has a triple mission in French-speaking Belgium : it coordinates the actions of the different associations and the seven regional CALs ; it promotes secular ideals and seeks to stimulate new services ; it represents the movement to the public authorities and third parties. Its actions contribute to forging a solidarity-based society, solidly anchored on its irremovable pillars : freedom, equality, solidarity.

Defence for Children International (DCI) - **Belgium** is a local and independent association founded in 1991. Since 1992, the association is a member of the DCI worldwide movement. While the DCI movement aims to promote and defend all children's rights, DCI-Belgium focuses mainly on violence against children, deprivation of liberty, juvenile justice, children in migration situations and child participation. DCI-Belgium carries out action research (involving documentary and field research), trains professionals, develops continuing education activities and tools, supports strategic litigation and carries out advocacy.

FIACAT : the FIACAT (International Federation of ACATs) is an international non-governmental human rights organisation, created in 1987, which fights for the abolition of torture and the death penalty. It represents its members in international and regional bodies and has consultative status with the United Nations, participatory status with the Council of Europe and observer status with the African Commission on Human and Peoples' Rights. FIACAT is also accredited to the Organisation Internationale de la Francophonie. It is a founding member of several action groups, including the World Coalition Against the Death Penalty and the Human Rights and Democracy Network.

I.Care is a Belgian non-profit organisation created in 2015 with the aim of promoting health in closed environments (for the moment only in prisons), improving the overall care of prisoners and ensuring continuity of care during the period of incarceration. Intervening in several prisons in Belgium, it also carries out advocacy actions.

The Human Rights League (LDH) : For almost 120 years, the Human Rights League (LDH) has been fighting, independently from the political power, against violations of fundamental rights in Belgium. As a counter-power, the LDH observes, informs and challenges public authorities and citizens in order to remedy situations that violate fundamental rights.

The Belgian branch of the International Prison Observatory (IPO – Belgian branch) aims to monitor the conditions of detention of people deprived of their liberty and to alert on the breaches of human rights to which the prison population may be subjected. Its main objective is therefore to "break the secrecy" surrounding places of detention. With human rights and respect for the human person as its guiding principles, the IPO considers that everyone has the right, in all places, to the recognition of their legal personality and that no one should be subjected to cruel, inhuman or degrading treatment or punishment. The IPO acts without any political consideration and is in favour of the application of national and international texts relating to human rights, regardless of the reason for the detention of the person concerned.

Move was created in January 2021 as a joint initiative of Caritas International, CIRÉ, Jesuit Refugee Service Belgium and Vluchtelingenwerk Vlaanderen, who have been participating for more than 20 years in a platform of Belgian NGOs bringing together accredited visitors of closed centres and return houses. Move reaffirms the right to freedom and wants to put an end to the administrative detention of migrants. In addition to the socio-legal assistance of the detainees and the monitoring provided by the accredited visitors, Move also carries out political, legal and awareness-raising activities.

Cross-cutting issues

Federal Institute for the Protection and Promotion of Human Rights

List of issues prior to submission of the 4th periodic report of Belgium (CAT/C/BEL/QPR/4) – Article 2

6. Further to the Committee's previous concluding observations (para. 9), please provide information on the steps taken to expedite the establishment of a national human rights institution in accordance with the Principles relating to the status of national institutions for the promotion and protection of human rights (the Paris Principles).3 Please also provide information on the measures taken to actively involve civil society in this process (see A/HRC/18/3, para. 100.9).

1. On the 12th of May 2019, a law was adopted to create a Federal Institute for the Protection and Promotion of Human Rights (IFDH), which is intended to be in line with the Paris Principles[1]. The institute has recently been set up with the installation of the secretariat on the 1st of February 2021.

2. The establishment of such an institution was indeed necessary to address the gaps and limitations of the current institutional structure regarding the protection of fundamental rights. Numerous international bodies monitoring respect for fundamental rights - whether from the United Nations[2] or the Council of Europe[3] - have been recommending that Belgium set up such an institution for many years. The Belgian State has committed itself to it on several occasions, both at national[4] and international[5] level. It is therefore to fill this gap that this law was adopted. While this is a welcome step forward, several questions remain unanswered.

3. First of all, fundamental rights are a cross-cutting issue, which affects the competences of all entities in the country. As an overall monitoring body for the situation of fundamental rights in Belgium, a level A institution in terms of the Paris Principles criteria must be able to monitor the respect and implementation of rights and freedoms in all matters subject to public action, whether they fall under the jurisdiction of the federal state, the provinces or the communities, or even the local authorities. One of the contributions of this new institution should be to help clarify the responsibilities of each of the country's entities in implementing Belgium's international human rights obligations. However, it is only a federal body, which does not cover all the prerogatives of the federated entities and local authorities. However, the questions that arise for these levels of power are also thorny.

1 Law of 12th May 2019 establishing a Federal Institute for the Protection and Promotion of Human Rights (Moniteur belge of 21st June 2019).
2 See, inter alia, CRC/C/BEL/CO/5-6, para. 12 ; E/C.12/BEL/CO/4, para. 8 ; CEDAW/C/BEL/CO/7, para. 13 ; CAT/C/BEL/CO/3, para. 9 ; CERD/C/BEL/CO/16-19, para. 7 ; CRPD/C/BEL/CO/1, para. 49, etc.
3 ee, inter alia, the report of the Council of Europe Commissioner for Human Rights, Thomas Hammarberg, following his visit to Belgium from 15th to 19th December 2008, 17th June 2009, CommDH(2009)14, §§10 and 56.
4 See inter alia Government Agreement of 10th October 2014, p. 227 ; Policy Note - Equal Opportunities, House of Representatives, 21st December 2012 (DOC 53 2586/013), p. 32.
5 See inter alia Human Rights Council, 'Report of the Working Group on the Universal Periodic Review - Belgium', 11th April 2016, A/HRC/32/8, pt. 138-21 - 138-52.

4. Moreover, the prerogatives of this institution are relatively limited. For example, individuals cannot submit complaints to it. The Institute is indeed conceived rather as an advisory body, which may greatly limit its possibilities of action.

5. Furthermore, care must be taken to ensure that this institution is provided with the necessary resources to enable it to carry out its tasks. Indeed, without a significant budgetary, human and political investment in this structure, it may not be able to take the full measure of the challenges of defending fundamental rights in Belgium.

6. Finally, given the fragmented situation of the Belgian institutional landscape, questions remain. For instance, it is not clear how the Institute will reconcile its mandate with those of the other existing institutions, which do not all have the expertise or the means necessary to carry out their tasks (e.g., the Central Prison Supervision Board, the Standing Police Monitoring Committee (Comité P), the Data Protection Authority, etc.).

7. For all these reasons, this step forward is to be welcomed, but care should be taken as to the true scope of this development. Adopted at the end of the legislature without any real debate, legitimate questions about the extension of its competences, its referral of complaints by individuals, and the resources made available remain unanswered so far.

RECOMMENDATION
Continue to defend the establishment of a proper national human rights institution, competent to ensure the respect of all fundamental rights applicable in Belgium and provided with the necessary means to fulfil its mission.

Lack of ratification of the OPCAT

List of issues prior to submission of the 4th periodic report of Belgium (CAT/C/BEL/QPR/4) – Article 2 and other questions

12. Further to the recommendations made by the Committee in its previous concluding observations (para. 13) and the State party's follow-up thereto, please provide updated and detailed information on the measures taken : (a) To establish a fully independent mechanism for the investigation of allegations of torture and ill-treatment and a specific register of allegations of torture and cruel, inhuman, or degrading treatment or punishment ;

43. Further to the recommendations made by the Committee in its previous concluding observations (para. 10), please provide information on the steps taken to ratify the Optional Protocol to the Convention with a view to putting in place a system of regular, unannounced visits by national and international observers for the purpose of preventing torture and other cruel, inhuman or degrading treatment or punishment (see A/HRC/18/3, para. 25).

8. Belgium signed the OPCAT in 2005 and committed itself to ratify it, but this has not yet been done. During its last universal periodic review by the UN Human Rights Council, the Belgian State was called to order because it failed to comply with its international commitments in this area. Belgium has still not set up a national preventive mechanism (NPM) in accordance with the Paris Principles and the OPCAT.

9. In Belgium, there are some institutions responsible for monitoring places of deprivation of liberty, such as the Conseil Central de Surveillance Pénitentiaire and the surveillance commissions (CCSP - for prisons and social defence sections and establishments), Myria (for closed centres - i.e. administrative detention), Committee P (which monitors police bodies) and the Federal Ombudsman (which receives individual complaints against Belgium from any person, whether detained or not). In accordance with the Paris Principles, some bodies are directly attached to Parliament and are therefore independent of the executive. Other bodies remain attached to the executive, which raises several issues.

10. However, none of these bodies meets the international requirements for NPMs. In practice, this means that no independent body monitors all places of deprivation of liberty and that detainees are deprived of an outside view of their rights, which are not always respected.

11. The solutions currently under discussion are no more capable of responding to these international recommendations : either they leave the current bodies in place and place them under a generic coordination umbrella, or they mix up the mandates and confuse monitoring, complaints and mediation. Thus, the solution of splitting an NPM into several separate departments, united only in name, would not be conducive to generating a single culture of prevention of torture and cruel, inhuman and degrading treatment and punishment. This is an essential outcome that can be expected from the ratification of the OPCAT.

12. On the other hand, many places, including some where juveniles are deprived of their liberty, are currently not subject to any independent external monitoring. Where a mechanism exists, monitoring is often fragmented, non-specialised and uncoordinated. These include intensive treatment units in psychiatric hospitals (where minors are placed), centres for foreigners and return houses, and police stations. From these observations, we must conclude that it is imperative to establish an NPM that will enable the Belgian state to ensure independent and impartial external monitoring of all places of deprivation of liberty. To this end, we believe that the following principles should be respected.

• MONITORING : A SPECIFIC MISSION

13. The monitoring of places of deprivation of liberty is a specific action that should not be confused with mediation or the exercise of the right to complain. To create a new dynamic in places of deprivation of liberty, a great deal of preventive work and training is required. There is a lack of training for “law enforcement personnel, medical personnel, public officials and other persons who may be involved in the custody, interrogation or treatment of any individual who has been arrested, detained or imprisoned in any manner whatsoever”, as defined in Article 10 of the Convention against Torture. Even before an NPM is implemented, it is vital that the Belgian authorities give greater emphasis to prevention and training, which are key notions in the Convention.

• TECHNICAL EFFECTIVENESS OF MONITORING : NEED FOR COORDINATION AND A SINGLE BODY

14. Bringing together expertise and specialised skills within a single body would have the merit of avoiding the dispersion of skills and energies and the lack of availability of the specialists and experts required, but also of allowing real coordination of the various actors in the field. A single independent preventive body with adequate financial and human resources and a real coordinating role would guarantee consistency in the monitoring of all places of deprivation of liberty. It is also a prerequisite for a single culture of prevention throughout Belgian society. A single NPM body also makes it possible to deal adequately with situations where several areas currently considered separately overlap. Furthermore, an in-depth analysis of existing NPMs abroad shows that single monitoring mechanisms are more effective than a multiplicity of uncoordinated actors. Finally, a single body reduces the risk of leaving places unmonitored.

• RESOURCES : COMPOSITION, INDEPENDENCE

15. A single, specialised institution would also ensure that the mission to monitor places of deprivation of liberty has its own budget. It may be noted that the establishment of a single structure for all places of deprivation of liberty would allow for an economy of scale and would be less costly than several geographical or thematic bodies.

16. The supervisory body and its members should be de jure and de facto independent of the political power, the executive powers and the administrative departments depending on them. Therefore, members should not hold a position that could lead to a conflict of interest (e.g. elected office, professional activities that are incompatible with their membership, etc.). They should exercise their functions in a personal capacity, to ensure genuine independence. The composition of the NPM should represent the diversity of backgrounds, audiences, skills and professional knowledge required to properly fulfil its mandate. For example, members of the NPM should include judges, lawyers, health professionals (including mental health), criminologists, social workers, child specialists (educators, pedagogues) and persons who have worked in civil society. The principles of non-discrimination, including gender and language parity, must be respected. To ensure effective monitoring, members must be professionalized - meaning that monitoring should not be based on volunteers. In addition, they must be properly and regularly trained, including in the specific needs and rights of children and other populations with particular vulnerabilities.

RECOMMENDATION

Ratify the OPCAT as soon as possible and establish an NPM with adequate legal, financial and human resources to ensure effective, independent and impartial external monitoring of all places where people are deprived of their liberty, in accordance with the OPCAT requirements.

Examinations carried out to establish acts of torture and ill-treatment

List of issues prior to submission of the 4th periodic report of Belgium (CAT/C/BEL/QPR/4) – Article 2

10. Please provide information on the measures adopted to ensure that medical examinations of detainees that focus on past torture and ill-treatment are thorough and impartial. More specifically, please provide information on the measures that have been taken to ensure that the medical experts conducting such examinations use forms that comply with annex IV of the Manual on Effective Investigation and Documentation of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (the Istanbul Protocol) and provide a statement of opinion regarding their findings ?

17. Following the adoption of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, international bodies developed a "Manual on the Effective Investigation and Documentation of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment", also called the Istanbul Protocol[6]. This manual is aimed at legal experts and health professionals. It provides, among other things, a framework for receiving and examining victims of violence and for writing a detailed certificate. Contrary to international law, there are no national standards in Belgium that refer to it. Except for some humanitarian associations confronted with torture in their work with persons in migration situations, the very existence of this Protocol is unknown to most health and justice professionals. The absence of a national standard complicates efforts to combat inhuman and degrading treatment, especially as this is not the only failure of the Belgian state in this area.

18. It should be noted that the Belgian State has failed to fulfil several of its legal obligations in this area, including the obligation to guarantee the identification of members of the security forces, to keep a register of deprivations of liberty and to guarantee the right to medical assistance for persons deprived of liberty[7]. Committee P stresses that this right is not always respected and is applied very differently depending on the police stations and police officers, as the necessary royal decree has still not been adopted despite numerous national and international reminders[8]. The doctor does not always draw up a complete certificate or report on the possible injuries suffered and rarely examines the compatibility with the causes described by the patient, as required by the Istanbul Protocol. The European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) also deplores the lack of specific recording of injuries for persons entering police stations in Belgium[9].

19. The shortcomings are not only to be found among the political authorities but also among the medical authorities. For example, although the Order of Doctors recently published a notice on relations between the medical profession and the state authorities, including the police[10], it does not mention the case of police violence and does not offer any guidelines in this regard. The opinion focuses more on the safety of medical

6 UN Human Rights Committee, *« Istanbul Protocol, Manual on the Effective Investigation and Documentation of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment »,* 1999.
7 See below.
8 See Committee P, *« The notification of rights in the context of deprivation of liberty in police detention facilities and the application of the right to medical assistance and the right to a meal in this context. Monitoring survey »,* 9th December 2019.
9 CPT, *'Report to the Government of Belgium on the visit to Belgium carried out by the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) from 24th September to 4th October 2013'*, 31th March 2016, §27.
10 Notice of 30th April 2020, *« Collaboration between the police, the public prosecutor's office and hospitals - General principles ».*

staff than on the rights of the patient. The failure to refer to the Law of 22 August 2002 on the rights of the patient[11] in this respect is simply astonishing, as persons deprived of their liberty are in no way excluded from the application of this law.

20. On the contrary, given their vulnerable situation, these persons should be the subject of special attention from the medical profession, which the above-mentioned notice fails to mention[12]. For example, the removal of handcuffs during the medical examination, or the examination of the person without the presence of police officers, are not expressly recommended, despite the flagrant risk of contradiction with respect for medical confidentiality, and although the testimonies collected by our associations help to establish that these are common practices. On the contrary, doctors are encouraged to follow the instructions of police officers[13], which, in addition to the infantilizing position in which it places both doctors and their patients, could put them at odds not only with their medical ethics, but also with the criminal law[14].

21. While the safety of medical staff is essential, it should not be ensured at the expense of patients' rights. As stated in Article 10 of the law of 22nd August 2002 on patients' rights, "§1. The patient has the right to the protection of his or her privacy during any intervention by the professional practitioner, in particular with regard to information relating to his or her health. The patient has the right to privacy. Unless the patient agrees, only those persons whose presence is justified in the context of services provided by a professional practitioner may be present during care, examination and treatment. §2. No interference with the exercise of this right shall be permitted unless it is provided for by the law and is necessary for the protection of public health or for the protection of the rights and freedoms of third parties. "

22. This is particularly true for emergency services where the police regularly bring arrested or injured persons, but also in closed centers for irregular foreigners and prisons. These are services where the interdependence between the medical and police corps is strong, as the police are often called in to deal with incidents. These different contexts call for a clear definition of the working framework, the need to arbitrate between staff safety and patient rights, and a clear separation of functions. While the safety of staff is of course cardinal and must be guaranteed at all times, this would mean reversing the subservient relationship of health professionals to the police : members of the medical profession should be put in a position where they are the ones to request police protection if necessary. In the absence of such a request, they should be able to determine the conditions under which they exercise their profession, in accordance with their professional ethics.

23. In general, whether for the medical profession or the police, addressing patients in a respectful manner, without distinction as to origin, sexual orientation, disability or any other protected criteria, is also a key consideration.

11 Moniteur belge of 26th September 2002.

12 It might have been useful to recall Article 5 of this law, which states that *« The patient has the right, from the professional practitioner, to quality services that meet his or her needs, while respecting his or her human dignity and autonomy and without any distinction being made. »*

13 *« The doctor respects the decision of the police to leave the patient handcuffed and may only object to this decision on medical grounds, for example when the patient's handcuffs strongly impede the provision of care. In this case, the doctor and the police shall consult each other as to how they can each fulfil their tasks in a safe and qualitative manner »,* notice of 30th April 2020.

14 Article 458 of the Criminal Code.

RECOMMENDATIONS

THE FEDERAL STATE SHOULD :

- **Integrate the Istanbul Protocol into Belgian legislation to provide a frame of reference for the medical, police and judicial bodies. The law of 22nd August 1992 on the police function should be amended to this end, as should the law of 22nd April 2019 on the quality of health care practice or, otherwise, by creating ad hoc legislation ;**

- **Include in the Police Service Act the obligation to carry out a summary medical examination before any detention ;**

- **Ensure that whenever injuries consistent with allegations of ill-treatment made by a patient are recorded (or indicative of ill-treatment, even in the absence of allegations), the finding is immediately and systematically brought to the attention of the competent prosecutor. The results of the examination should also be made available to the patient concerned and, with his or her consent, to his or her lawyer ;**

- **Set up care services specifically dedicated to the examination of persons deprived of their liberty, staffed by specialised doctors, with suitable facilities and the time needed to draw up a report in accordance with the Istanbul Protocol[15] ;**

- **Adapt the initial training of the medical staff, the police and the judiciary (lawyers, magistrates, judges, prison staff) and include an introduction to the use of the Istanbul Protocol ;**

- **Adopt a directive recalling the obligations of the police forces regarding medical assistance, in particular the necessity for a strict compliance with police and medical ethics (no examination in the presence of a police officer if the doctor does not require it, no handcuffs to be worn during the medical examination if the situation does not require it, no receipt of medical certificates of the person deprived of liberty, allow practitioners to carry out their mission without pressure, etc.) ;**

- **Adopt the implementing decrees that are necessary to comply with the legal obligation to have a register of deprivation of liberty (as required by international bodies and Committee P) and those necessary to comply with the legal obligation to guarantee the right to medical assistance of persons deprived of liberty, as required by Committee P.**

15 This is the case, for example, in the pilot project of the center for the treatment of sexual violence at Saint Peter's Hospital in Brussels.

THE MEDICAL AUTHORITIES SHOULD :

- **Recall to all medical staff the legal and ethical obligations of practitioners when examining a person deprived of liberty ;**

- **Require that medical examinations of persons deprived of their liberty can be carried out in complete confidentiality unless police presence is required for security reasons ;**

- **Not transmit medical documents to other persons than the patient. As noted by the CPT, the findings of the doctor, including the injuries, the statements of the person concerned regarding the origin of those injuries, and the possible compatibility of those injuries with the statements of the person concerned, should be recorded in a medical certificate which should only be made available to the person deprived of liberty who has been examined and/or, at his or her request, to his or her lawyer ;**

- **Ensure that the information recorded in medical files is sufficiently accurate and complete. As the CPT recalls, the medical file drawn up following the examination of a patient showing signs of injury should contain :**
  - **i) a full report of the statements made by the person concerned which are relevant to the medical examination (including a description of his or her state of health and any allegations of ill-treatment) ;**
  - **(ii) a full report of the objective medical findings based on a thorough examination ;**
  - **(iii) the doctor's conclusions in the light of points (i) and (ii) regarding whether the statements made as to the origin of the injuries are consistent with the objective medical findings.**

Inhuman and degrading treatments by law enforcement officers

List of issues prior to submission of the 4th periodic report of Belgium (CAT/C/BEL/QPR/4) – Articles 12 and 13

36. Further to the recommendations in the Committee's previous concluding observations (para. 13) and the State party's follow-up thereto, please provide updated and detailed information on : (...)) The steps taken to 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 to prosecute and sanction officials found guilty of such offences with appropriate penalties.

24. In their recommendations to the Belgian State[16], the CPT, your Committee and the UN Human Rights Council[17] stipulated, among other things, that *"The State party should take the necessary measures to combat ill-treatment effectively, including ill-treatment based on any form of discrimination, and punish the perpetrators appropriately"*[18]. Despite this, allegations of ill-treatment by law enforcement officers continue to be made[19], and even convictions by the European Court of Human Rights (ECHR)[20].

25. The news of the last few years has contributed to the assertion that there is an acute problem of police violence in Belgium. Thus, many cases of disproportionate use of force have led to the death of the persons arrested, without an adequate reaction from the judicial authorities[21]. Similarly, many disproportionate police interventions led to serious interference with the fundamental rights of citizens peacefully demonstrating in the public space[22]. The situation of an epidemic crisis has also been a source of numerous interferences with the fundamental rights of individuals[23]. Finally,

16 CPT, *« Report to the Government of Belgium on the visit to Belgium carried out by the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) from 27th March to 6th April 2017 »*, 8th March 2018, §§12 ff. See also, CPT, *« Report to the Government of Belgium on the visit to Belgium carried out by the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) from 18th to 27th April 2005 »*, 20th April 2006, §§11 and 12 ; CPT, *« Report to the Government of Belgium on the visit to Belgium carried out by the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) from 28th September to 7th October 2009 »*, 23rd July 2010, §§13 ff.

17 Human Rights Council, « Draft report of the Working Group on the Universal Periodic Review - Belgium », 11th April 2016, A/HRC/32/8, pt. 139.8 - 139.10

18 Committee against Torture (CAT), 'Concluding observations : Belgium', 19th January 2009, CAT/C/BEL/CO/2, §13

19 CPT, *« Report to the Government of Belgium on the visit to Belgium carried out by the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) from 27th March to 6th April 2017 »*, 8th March 2018, §§12 ff.

20 ECHR, Bouyid v. Belgium, 28th September 2015, req. n°23380/09.

21 To take up only the deaths in the hands of the police, see the 'Bangoura' case in Le Soir, *'Mort de Lamine Bangoura : pas de renvoi en correctionnelle pour les 8 policiers'*, 16th March 2021 ; 'Barrie' case in Le Soir, *'Décès d'un jeune homme après son passage au commissariat de Saint-Josse : ce que l'on sait'*, 11th January 2021 ; 'Charrot' case in Le Soir, *'Affaire Adil : une plainte pénale déposée contre le parquet de Bruxelles'*, 16th December 2020 ; 'Chovanec' case in Le Vif, *'Chovanec : l'enquête sous enquête'*, 10th September 2020 ; 'Abbedou' case in Le Soir, *'Décès d'Ilyes Abbedou : chronologie d'une détention qui pose bien des questions'*, 25th January 2021 ; 'Kadri' case in RTBF, *'Anvers : la mort d'Akram à la suite d'une intervention policière suscite l'indignation sur les réseaux sociaux'*, 20th July 2020 ; 'Bouda' case in Sud Info, *'Mehdi, 17 ans, tué par un combi de police : sa famille pense demander des devoirs d'enquête complémentaires, 'on se battra pour se faire entendre'*, 8th October 2020 ; etc.

22 On the subject, see the analysis of Police Watch, the LDH's Observatory of Police Violence, *« When citizens use their right to demonstrate to denounce police violence, the police respond with violence »*, 3th February 2021.

23 LDH, *« Police Watch Report. June 2020. Police abuses and lock-downs »*, June 2020.

the fact of being a minor or young adult did not protect individuals from disproportionate or even illegal police interventions[24], nor did the fact of being in a particularly vulnerable situation due to one's administrative status[25].

26. However, these exceptional situations in various respects should not obscure the general problem of daily police violence suffered by a significant number of individuals on a day-to-day basis (regardless of the health situation, outside the framework of public demonstrations and not necessarily resulting in the death of the people stopped).

27. However, the reaction of the Belgian authorities is not commensurate with the importance of the phenomenon. To provide an adequate response, our organisations make several recommendations to the Belgian State.

28. First of all, to combat a phenomenon, it is important to know about it. However, Belgium is characterised by a lack of data and analysis on this issue. Such an analysis cannot be carried out if accurate and up-to-date data are not available and accessible to the various competent authorities. To this end, it is essential to systematically collect anonymised data on law enforcement interventions. In this regard, the UN Committee on the Elimination of Racial Discrimination recently recommended that the Belgian State *'improve its system of data collection and recording of complaints about racially motivated police violence, using appropriate indicators that allow the identification of the ancestry or national or ethnic origin of the victims' and 'collect comprehensive data on complaints related to racial profiling, and publish it regularly [...]*[26].

RECOMMENDATION
Collect data to document and analyse interventions of the law enforcement members.

29. Furthermore, the law of 4th April 2014 amending article 41 of the law on the police service of 5th August 1992, to guarantee the identification of police officers and agents while improving the protection of their private life[27], aims to allow the identification of police officers in all circumstances, in accordance with the case-law of the European Court of Human Rights[28]. However, this law is very rarely applied and, when it is, it is in an unequal and differentiated manner that varies from one police zone to another. Furthermore, the law does not set out any sanctions for police officers who do not

24 See in this regard the report of the General Delegate for the Rights of the Child of the French Community, which states that *« The General Delegate is regularly questioned by young people, their families or front- and second-line professionals, making allegations of police violence, abusive and discriminatory identity checks or denouncing, more generally, intimidating or humiliating methods.* » in Délégué Général aux Droits de l'Enfant, *« Rapports sur le Covid-19 et les activités 2019-2020 »*, p. 113. It should also be noted that particularly serious acts of violence on a significant scale have been observed against children in recent months, especially during three demonstrations that took place between November 2020 and February 2021 in Brussels (LDH, *« Quand les citoyen-ne-s utilisent leur droit de manifester pour dénoncer les violences policières, les forces de l'ordre répondent par la violence »*, 3th February 2021).

25 In October 2018, Médecins du Monde published a survey on police violence against migrants and refugees in transit in Belgium, highlighting, among other things, the fact that almost 60 % of respondents said they had been confronted with police violence in the field (Médecins du Monde, *« Police violence against migrants and refugees in transit in Belgium - A quantitative and qualitative survey »*, October 2018).

26 Committee on the Elimination of Racial Discrimination, *« Concluding observations on the twentieth to twenty-second periodic reports of Belgium »*, 21st May 2021, CERD/C/BEL/CO/20-22, pt. 14, b) and 16 c).

27 Law of 4th April 2014 amending article 41 of the law on the police function of 5th August 1992, to guarantee the identification of police officers and agents while improving the protection of their private life (Belgian Official Gazette of 28th May 2014).

28 ECHR, case Hristovi v. Bulgaria, 11th October 2011, req. no. 42697/05, §§92-93 ; see also The Defender of Rights, *« Report on police/citizen relations and identity checks »*, p. 32 ; Article 45 of the European Code of Police Ethics.

respect their obligation to be identifiable or who deliberately prevent identification. The Belgian State must ensure compliance with this obligation to combat inhuman and degrading treatments.

RECOMMENDATION
Ensure the identification of the law enforcement members.

30. Moreover, the lack of communication is often pointed out as a factor of tension during police interventions. It would be advisable to require members of the police force to explain the reasons for their interventions to the persons concerned (unless there are compelling reasons not to do so) and to provide information on the respective rights and responsibilities of the police and the persons being checked. This communication should also take place in a polite and respectful manner, as stated in the circular of 2nd February 1993 concerning the law of 5th August 1992 on the police function[29].

RECOMMENDATION
Impose an obligation to motivate the intervention of the law enforcement members.

31. In addition, it is important to recall that there is no general ban on photographing or filming police actions[30]. The role of images in combating the unlawful use of force by the police is well established[31]. Apart from certain exceptional and limited cases, citizens and journalists have the right to film or photograph police actions, either to inform or to collect evidence of the course of events[32]. This right should be strongly reaffirmed by the Belgian authorities, as the number of cases of problematic, even illegal, interventions by the police is increasing. For example, journalists[33] and non-governmental organisations (NGOs - including the LDH) are regularly harassed for doing their job, or even prosecuted[34]. These unacceptable practices, which are contrary to both freedom of expression and freedom of the press, should stop immediately.

29 *"The police officer who carries out a check must have a well-founded police reason for carrying out an identity check and must be able to explain this reason to his superiors. (...) It is imperative in this respect to avoid that identity checks degenerate into excessive and vexatious police measures because of their too systematic nature, their frequency or certain ways of carrying them out, which are likely not only to cause concern and disapproval, but also to compromise the effectiveness of identity checks as a whole [...]"* (Circular of 2nd February 1993 relating to the law of 5th August 1992 on the police function (Moniteur belge of 20th March 1993, article 6.3.3.).

30 Brussels Court of First Instance, Civil Section, judgment 2019/22791 of 24th October 2019, roll no. 2019/1239/A ; Police Court of Walloon Brabant, Wavre Division, judgment 2018/233 of 12th November 2018, roll no. 18A14 ; D. Voorhoof, 'Geen verbod op filmen van politieagenten', De Juristenkrant, no. 380, 19th December 2018.

31 As illustrated by the so-called 'Chovanec' case, named after the Slovak citizen who died in a cell at Charleroi airport (see RTBF, *« Tout comprendre à l'affaire Chovanec : le fil des évènements, les dates et les personnages clés »*, 2nd September 2020), or the conviction by the Brussels criminal court of a police officer for assault and battery on a young Sudanese migrant (see BX1, *« La police accusée de violences sur un migrant soudanais à Bruxelles : une enquête ouverte »*, 22nd April 2020 and L'Avenir, *« Il aurait violenté un migrant : un policier condamné à un an de prison avec sursis »*, 17th July 2020).

32 According to the Council of Europe's European Commission for Democracy through Law (« Venice Commission »), States should not *« prevent participants and third parties from photographing or filming the police operation [...] ».*

33 See, among others, RTBF, *« Les journalistes et collaborateurs de la RTBF arrêtés par la police à Steenokkerzeel ont été libérés »*, 20th June 2018 ; RTBF, « Extinction Rebellion : on peut-on filmer les arrestations par la police ? », 14th November 2019 ; RTBF, *« Intimidation of journalists by police during anti-racism demonstration : AJP opens complaint file »*, 8th June 2020 ; DH, *« Policemen filmed in the middle of an arrest : why the officer on this video is largely wrong »*, 19th August 2020 ; etc.

34 LDH, *'Droit de filmer l'action policière : la Justice appelée au secours des droits fondamentaux'*, 15th November 2018 ; LDH, *'Les forces de l'ordre ne sont pas au-dessus des lois'*, 28th February 2019.

RECOMMENDATION
Guarantee the right to film and to take photo of law enforcement interventions.

32. Furthermore, Belgian law does not provide for a mandatory medical report for any person deprived of liberty by the police[35]. It does, however, provide for the right to unconditional medical assistance for any person deprived of liberty[36]. However, this right is not always respected and is applied very differently depending on the police station and the police officers, as the necessary royal decree has still not been adopted despite numerous national and international reminders, as attested by the Committee P[37]. The doctor does not always draw up a complete certificate or report on the possible injuries sustained and rarely examines the compatibility with the causes described by the patient, as stipulated in the Istanbul Protocol[38]. The CPT deplores the lack of specific recording of injuries for persons entering police stations in Belgium[39]. The taking of photographs of any injuries is not provided for by any regulation and is not practised. As a result, victims of violence have difficulty obtaining detailed medical certificates that can be used as evidence in court. The Belgian State should remedy these deficiencies by strictly applying the Istanbul Protocol.

RECOMMENDATION
Ensure that medical information are taken into account, in particular by strictly applying the Istanbul Protocol.

33. The Committee P was created to provide the Federal Parliament with an external body responsible for overseeing the police service. Although it describes itself as an independent institution, the Committee P is criticised by many international bodies for its lack of independence and objectivity, particularly because of the composition of its investigative department. This department is composed of police officers, from different departments, who are responsible for monitoring the work of police forces. In this context, your Committee has repeatedly recommended to the Belgian State to take *"the relevant measures to further strengthen the control and supervision mechanisms within the police, in particular Committee P and its Investigation Department, which should be composed of independent experts recruited from outside the police"*[40]. Similar recommendations have been made by the UN Human Rights Committee (the Committee *"expresses concern that doubts remain about the independence and objectivity of Committee P and its ability to deal with complaints against police officers in a transparent manner"*[41]) and more recently by the UN Human Rights Council[42] and the Committee

35 For more information, see LDH, *« Violences policières et la charge de la preuve. Le rôle du certificat médical »*, December 2020.
36 Article 33 quinquies of the law of 5th August 1992 on the police function.
37 Committee P, *'The notification of rights in the context of deprivation of liberty in police detention facilities and the application of the right to medical assistance and the right to a meal in this context. Monitoring survey'*, December 2019.
38 UN Human Rights Committee, *« Istanbul Protocol, Manual on the Effective Investigation and Documentation of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment »*, 1999 ; see also above.
39 CPT, *'Report to the Government of Belgium on the visit to Belgium carried out by the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) from 24th September to 4th October 2013'*, 31st March 2016, §27.
40 CAT, *« Concluding observations on the third periodic report of Belgium »*, CAT/C/BEL/CO/3, January 2014, §13 ; CAT, *« Concluding observations on the second periodic report of Belgium »*, CAT/C/BEL/CO/2, 19th January 2009, §11.
41 Human Rights Committee, *« Draft concluding observations of the Human Rights Committee -Belgium »,* CCPR/C/BEL/CO/5, 16th November 2010, §15 ; see also : ECRI, *« ECRI's report on Belgium (fourth monitoring cycle) »*, 26th May 2009, p. 46, n° 170.
42 Human Rights Council, *« Draft report of the Working Group on the Universal Periodic Review - Belgium »,* 7th May 2021, A/HRC/WG.6/38/L.5.

on the Elimination of Racial Discrimination[43]. The independence of the Committee P must therefore be imperatively guaranteed.

RECOMMENDATION
Ensure the effectiveness of the complaint's mechanisms, in particular by guaranteeing the independence of the investigation department of the Permanent Control Committee of the Police Services (Committee P), in accordance with international recommendations.

34. It is also essential to provide more advanced and standardised training on various points, including the use of coercion, cultural diversity, the right to film police actions, the rights of the child, the application of the Istanbul Protocol and respect for fundamental freedoms in general[44]. This is the case for both basic training for police officers and optional continuous training.

RECOMMENDATION
Invest in the training of officers, both initial and continuous.

35. In order for police services to be more in tune with the socio-cultural reality of our country (particularly in large urban centres), and as recommended by the Committee on the Elimination of Racial Discrimination[45], it would seem necessary to adopt a genuine proactive policy of diversity within police services.

36. Finally, many allegations of illegal police interventions seem to be part of a discriminatory context[46]. However, the Belgian authorities refuse to analyse things from this angle. Yet, as the Committee on the Elimination of Racial Discrimination points out, it is essential to *'speed up the process of drawing up and adopting the plan of action to combat racial or ethnic profiling, and specific guidelines or detailed instructions concerning identity checks in order to prevent racial profiling [...]'*[47].

RECOMMENDATION
Adopt a genuine proactive diversity policy within the police service and take the necessary steps to put an end to the issue of racism.

43 Committee on the Elimination of Racial Discrimination, *« Concluding observations on the twentieth to twenty-second periodic reports of Belgium »,* 21st May 2021, CERD/C/BEL/CO/20-22, pt. 13 to 16.
44 See in this regard Committee on the Elimination of Racial Discrimination, *« Concluding observations on the twentieth to twenty-second periodic reports of Belgium »,* 21st May 2021, CERD/C/BEL/CO/20-22, pt. 16, f).
45 Committee on the Elimination of Racial Discrimination, *« Concluding observations on the twentieth to twenty-second periodic reports of Belgium »,* 21st May 2021, CERD/C/BEL/CO/20-22, pt. 14, c).
46 In addition to the examples already cited, see also the 'Herzberger-Fofana' case in RTBF, *'L'eurodéputée Pierrette Herzberger-Fofana porte plainte pour avoir été brutalisée par des policiers à Bruxelles'*, 17th June 2020 ; see also LDH, *'Contrôler et punir ? Etude exploratoire sur le profilage ethnique dans les contrôles de police : paroles de cibles'*, 2016 ; see also Amnesty International Belgium, *'On ne sait jamais avec des gens comme vous - Politiques policières de prévention du profilage ethnique en Belgique'*, May 2018 ; P. Charlier, *'Protéger nos libertés et garantir notre sécurité'* in La Libre Belgique, 8th December 2015.
47 Committee on the Elimination of Racial Discrimination, *'Concluding observations on the twentieth to twenty-second periodic reports of Belgium'*, 21st May 2021, CERD/C/BEL/CO/20-22, pt. 16, b).

Inspectorate-General of the Federal and Local Police (AIG)

List of issues prior to submission of the 4th periodic report of Belgium (CAT/C/BEL/QPR/4) – Article 3

18. With regard to the Committee's previous concluding observations (para. 20), please provide information on the measures taken to strengthen the independence, impartiality and efficiency of the Inspectorate-General of the Federal and Local Police (AIG). More specifically, please provide information regarding the allocation of resources and the Inspectorate-General's capacity to monitor expulsions, and to receive and consider complaints. What measures has the State Party taken to enhance oversight, such as the use of video recordings and monitoring by NGOs ? Please also indicate which measures have been put in place to restrict the use of restraints during expulsion operations (see A/HRC/18/3, paras. 33, 46 and 101.23).

37. The Inspectorate-general of the Federal and Local Police (AIG) is responsible for monitoring forced returns. However, this institution lacks resources and does not use interpreters, which makes it difficult for foreign nationals who are returned to understand its mandate. In 2019, the AIG had a budget of €7,033,000[48].

38. In 2019, the AIG had monitored 96 forced return (compared to 96 in 2018 and 103 in 2017), of which 72 were aeronautical returns from Zaventem, 24 aeronautical returns from Gosselies, no returns by boat and no returns by train[49].

39. Following the investigation report of the Commissioner general for refugees and stateless persons (CGRA) on the Sudanese case, a Commission for the evaluation of the policy of voluntary return and forced removal of foreigners (also known as the 'Bossuyt Commission') was set up on 7th of March 2018. The final report of the commission was presented to the Secretary of State on Asylum and Migration on September 15th 2020. The composition of the commission as well as the methodology used were strongly criticized within civil society[50]. However, the commission highlighted the importance of strengthening the AIG by at least doubling the number of checks to be carried out. As a result of the work of the Bossuyt commission, a law proposal to set up a permanent commission to monitor the policy on the expulsion of foreigners has been submitted. We support the recommendation of Myria in this regard[51].

40. Given the limited number of checks carried out, the added value of video surveillance in sensitive areas of each removal stage has led to a change in the law to allow the use of this technology[52].

48 AIG, *« Rapport d'activités 2019 »*, p. 49.
49 AIG, *« Rapport d'activités 2019 »*, p. 9.
50 CIRé, « Commission Bossut : analyse de la société civile », 21 octobre 2020, available here : https ://www.cire.be/publication/commission-bossuyt-analyse-de-la-societe-civile/.
51 Myria, *« Avis sur la création d'une commission permanente pour le suivi de la politique d'éloignement des étrangers »*, 27 april 2021.
52 Loi modifiant la loi sur la fonction de police en vue de régler l'utilisation de caméras par les services de police et modifiant la loi du 21 mars 2007 réglant l'installation et l'utilisation de caméras de surveillance, la loi du 30 novembre 1998 organique des services de renseignement et de sécurité et la loi du 2 octobre 2017 réglementant la sécurité privée et particulière, 21 mars 2018.

RECOMMENDATION
Ensure independent monitoring of the execution of forced return measures.

Respect for the principle of non-refoulement and applications for international protection

List of issues prior to submission of the 4th periodic report of Belgium (CAT/C/BEL/QPR/4) – Article 3

19. With regard to the Committee's previous concluding observations (para. 22), please provide detailed information on the measures taken to amend relevant laws so that the principle of non-refoulement is unconditionally respected. Please indicate the number of cases of refoulement, extradition and expulsion carried out by the State Party based on the acceptance of diplomatic assurances or equivalent, as well as any instances where the State Party has given diplomatic assurances or guarantees. More specifically, please disaggregate the information by year, nationality, gender, age and religion.

20. What is the minimum content of such assurances or guarantees, whether given or received, and what measures, with regard to subsequent post-return monitoring mechanisms, have been taken in such cases. Please provide details on :

(a) Policies put in place to clearly prevent the transfer of any non-national to another country when there are substantial grounds for believing that he or she would be in danger of being subjected to torture or cruel, inhuman, or degrading treatment or punishment ;

(b) Measures taken to recognize that diplomatic assurances and monitoring arrangements cannot be relied upon to justify transfers when a substantial risk of torture exists.

21. Please provide data, disaggregated by year, age, gender, religion and nationality on :

(a) The number of asylum requests registered, approved and denied ;

(b) The number of asylum seekers whose requests were granted because they had been tortured or might be tortured if they were returned to their country of origin ;

(c) The number of forcible deportations or expulsions (please indicate how many of them involved rejected asylum seekers) and the countries to which the persons were expelled ;

(d) Detailed information on the reasons for the returns ;

(e) A complete list of the countries to which the persons were returned, disaggregated by year.

41. Governed by the laws of 15 December 1980 and 12 January 2007[53], the asylum procedure in Belgium has been significantly amended, in particular with the adoption of the laws of 21 November 2017 and 17 December 2017, which have been strongly criticised.

42. In 2020, 16,910 people had submitted an application for international protection to the Alien Office (OE/DVZ), which represents a clear decrease compared to 2019 (27,742 applications for international protection had been submitted), whereas a constant increase had been noted since 2016. This decrease is largely due to the covid-19 pandemic, in particular due to the temporary suspension of the registration of applications and restrictions on travel. Indeed, in the face of covid-19, the Aliens Office closed

53 Law of 15 December 1980 on access to the territory, stay, settlement and removal of foreigners and Law of 12 January 2007 on the reception of asylum seekers and certain other categories of foreigners.

its doors from 30 March 2020, preventing the submission of applications for international protection within the set deadlines and access to the reception system for many applicants. As a result, families have been living on the streets and unaccompanied children have been deprived of adequate reception. Applications for protection could once again be submitted via an online form.

43. In the same year, 17,384 persons received a decision on their application for protection, of which 4,888 persons were granted refugee status and 948 persons were granted subsidiary protection status. The protection rate[54] thus continued to decrease from 36.9 % in 2019 to 34.1 % in 2020.

44. Applications for international protection are submitted to the Alien Office (OE/DVZ), which registers them, and they are then reviewed by the Commissioner general for refugees and stateless persons (CGRA/CGVS)[55]. Since 2017, it is exclusively up to the applicant to prove the credibility of his/her story. Due to the pandemic of covid-19, the CGRA started to hear applicants by videoconference. However, on 7 December 2020, the Council of State suspended the CGRA's rules allowing videoconference interviews of applicants in open centres. With regard to closed centres, the Belgian judge also ruled that the CGRA's practice of using videoconferencing for interviews was illegal[56]. However, the administration continues to organize interviews via videoconference despite the absence of a legal basis.

45. The priority or accelerated procedures reduce the time between the notification of the applicant and the personal interview to 2 days and the processing time to 15 days after receipt of the file. These time limits do not allow for adequate preparation for the personal interview or a thorough study of the application. The time limits for appealing to the Council for Alien Law Litigation (CALL) have been reduced from 30 to 10 days, or even 5 days if the applicant is detained. It is almost impossible to prepare an effective defence in such a short time. Moreover, the appeal is not suspensive in the case of a subsequent application.

46. Since 2018 and the decision of the Court of Cassation on the Sudanese case[57], the alien office is bound to register a request for international protection even when the foreigner does not formally request it or even when he/she opposes it if his/her return entails potential violations of these fundamental rights[58]. However, it should be noted that this practice of 'implicit asylum application' is mostly used by the alien office in order to activate the Dublin procedure and to return the person concerned as quickly as possible to another Member State[59]. On 27 October 2020, the ECHR unanimously condemned the Belgian State for sending Mister A. (one of the victims in this case) back to Sudan, thereby subjecting him to the risk of inhuman and degrading treatment and

54 Number of decisions granting protection status out of the total number of final decisions minus the number of interim decisions and the number of decisions to revoke or withdraw status.
55 Since 2017, other, non-independent, bodies are also entitled to conduct these interviews.
56 CALL 250377 of march 4, 2021 & CALL 250489 of march 5, 2021.
57 Cour de cassation de Belgique, arrêt du 31 janvier 2018.
58 See in this sense the statements of the Secretary of State for Migration in the AIDA report on Belgium : : *« Of course, I also take into account that in the meantime several changes have been made to the procedure. For example, after the facts to which this judgment relates, the practice of implicit asylum applications was already introduced, whereby the CGRS, at the initiative of the Immigration Office', still conducts an investigation into international protection in a very limited number of cases in which the person concerned does not apply for asylum. Moreover, I will continue to support and expand the recently founded specialised unit of the Immigration Office which is responsible for supporting its personnel in the examination of art. 3 ECHR. »*
59 Vluchtelingenwerk Vlaanderen,*« Algemene beleidsnota en migratie : kritische bemerkingen en aandachtspunten van het middenveld ».*

violating the right to an effective remedy against the expulsion decision taken against him[60].

47. Article 9 of the 1980 Act allows for the granting, by discretionary power of the Executive, of humanitarian visas in exceptional circumstances where there is a risk of death or inhuman or degrading treatment. These visas were at the heart of a case that led to the conviction for human trafficking of a local politician who selected the beneficiaries in exchange for large sums of money. Speaking of victims of trafficking, it is worth mentioning the existence of a 45-day transitional right of residence in a specialised reception centre to give them time to initiate potential proceedings. This structure is still not well-known and not adapted to deal with crisis situations.

48. Belgium has about 80 reception centres with a capacity of 28,000 places in total. Applicants are provided with food and accommodation, social, medical and psychological support, legal aid and interpretation. Some asylum seekers do not benefit from this reception system and Article 4 of the 2007 law provides for the possibility of limiting or even withdrawing the right to material aid. This system has a derogation called the emergency reception system, which grants only limited support for a reasonable period of time when the reception network is full. It is worth noting that in 2020, in response to the covid-19 crisis, several cities have increased their capacity to accommodate homeless people, including migrants, by using local hotels or campsites, for example, with dedicated isolation spaces for people with covid-19.

49. Unaccompanied minors are housed in an orientation and observation centre while the guardianship service checks their age and isolation and draws up social, medical and psychological profiles. The minor is then referred to a collective structure or a foster family, for the youngest or most vulnerable, or even to local reception initiatives or public social action centres if they are more autonomous.

60 For the record, the applicant, MA, had entered Belgium unlawfully and, in August 2017, received an order to leave the country. Pending his removal, he was transferred to a migrant detention centre, where he submitted an asylum application. Shortly afterwards, he discovered that the Belgian authorities were working with the Sudanese authorities to identify and return Sudanese nationals who had unlawfully entered Belgium. As a consequence, and because he did not have a lawyer, MA withdrew his application. That same month, he attended a meeting with members of the Sudanese embassy and identification mission, after which he received a travel permit to return to Sudan. On 30 September 2017, after having consulted a lawyer, MA requested to be released from detention at a Leuven First Instance Court. However, two weeks later, and before this request was examined, the Belgian authorities warned him that he would have to board a flight to Sudan. Simultaneously, a First Instance Judge ruled against deporting the applicant before the Leuven First Instance Court had ruled on the custodial measure. While the Belgian authorities cancelled the deportation, they nonetheless brought MA to the airport. There, he allegedly met a man in uniform who explained him that he would be sedated if he refused to board the plane and that further attempts to remove him would be organized. Finally, MA signed a statement authorizing his departure. The ECtHR underlined that the country of origin information at that time clearly reflected a problematic general human rights situation in Sudan and, therefore, concluded that the Belgian authorities could not have ruled out a real risk of treatment contrary to Article 3 of the ECHR for MA. The Court reiterated that, while it is in principle for the applicant to adduce evidence that can prove that there are substantial grounds for believing that he will be subjected to treatment contrary to Article 3, it is for the government to dispel any doubts when the applicant provides such evidence. In addition, the Court underlined that the assessment of an Article 3 violation should take into account the practical difficulties an applicant encounters in pursuing his application and his specific vulnerability as an asylum applicant. In that respect, the Court noted that MA did not consult a lawyer during the first week of his detention and that he was not granted access to an interpreter when he was interviewed at the detention centre. These issues, together with the fact that the Belgian authorities had only asked MA very general questions about the risks that he might face and the circumstances of his interview, led the Court to conclude that the authorities had not carried out a sufficient assessment of the risks faced by the applicant under Article 3. Regarding Article 13 ECHR, taken together with Article 3, the Court held that the applicant did not leave Belgium voluntarily. Furthermore, it concluded that, in view of the speed with which he was expelled and taking into account that a judge had prohibited MA's removal pending court proceedings, the Belgian authorities had failed to suspend the measure in compliance with a court decision, thereby rendering MA's successful appeal ineffective. Therefore, it concluded that there had been a violation of Article 13, read together with Article 3 ECHR. (https ://www.asylumlawdatabase.eu/en/content/ma-v-belgium-removal-sudanese-national-violates-article-3-and-13-echr)

50. In response to Covid-19, on 19 March 2020, around 300 foreigners in detention centres were ordered to leave the country within 30 days.

RECOMMENDATIONS
Guarantee to all applicants an independent and thorough examination and an effective appeal within a timeframe that allows them to adequately prepare their application and their defence, including under the accelerated and priority procedures ;
Guarantee the reception right for all applicants for international protection and strengthen the support of unaccompanied foreign minors.

Administrative detention of foreign persons

List of issues prior to submission of the 4th periodic report of Belgium (CAT/C/BEL/QPR/4) – Article 11

33. Further to the Committee's recommendation in its previous concluding observations (para. 21), please provide information on the application of the Dublin II Regulation, and on the steps taken by the State party to ensure that the detention of asylum seekers is used only as a last resort and for as short a time as possible and without excessive restrictions. Please provide information on the arrangements that the State Party has established and used as an alternative to detention for asylum seekers ?

• ADMINISTRATIVE ARREST

51. An administrative arrest can result from an identity check or the implementation of an order to leave the country (OQT). As a result, the alien office counted 34,693 arrests in 2019, which is a decrease from 2018's 36,386 administrative arrests, following a steady increase in arrests since 2015. Of the 34,693 administrative arrests in 2019, we note that 10,352 resulted in an acquittal (or about 30 %), 17,151 (or about 49 %) resulted in an order to leave the country (either a new order or confirmation of a previous OQT), and 4,957 (or about 14 %) resulted in administrative detention. Those arrested were mainly of Moroccan origin (6,350 persons, or 18 %), Algerian (6,052 persons, or 17 %), Eritrean (4,269 persons, or 12 %), Romanian (1,442 persons, or 4 %), and Tunisian (1,245 persons, or 4 %).

• ADMINISTRATIVE DETENTION

52. Applicants for international protection are detained at the border in accordance with article 74/5, §1, subparagraph 1, 2° of the law of December 15, 1980, known as the Aliens Act (LE), while awaiting authorization to enter the territory or to be turned back. The detention of applicants for international protection on the territory is provided for in article 74/6 of the law of 15 December 1980. According to the preparatory work for the law of November 21, 2017, which introduced this provision in its current version in the law of December 15, 1980, it also applies to persons initially detained at the border, but who were subsequently allowed to enter the territory[61].

61 Nansen, *« Vulnérabilités en détention – procédure à la frontière, procédure accélérée, visioconférence »*, p. 9.

53. Article 74/6 LE, which establishes the possibility for the alien office to keep in detention an applicant for international protection in order to clarify the elements supporting his application, allows, in practice, the detention of any applicant for international protection, even though this same article stipulates that a foreigner cannot be detained for the sole reason that he has submitted an application for international protection. The same applies to article 74/5 §1 paragraph 2 LE, which allows the refoulement of an applicant for protection who does not have a visa, even though, due to the restrictive policy of issuing visas, most IPRs travel to Belgium without having a visa. These legal possibilities are, in fact, used by the alien office automatically. This results in a systematic detention of asylum seekers at the border[62].

54. The law generally provides for a maximum of 5 months' detention (8 months in cases where the preservation of public order or national security so requires)[63]. There is no provision preventing the Aliens Office from "stacking up" the different periods provided for in the law. Thus, we notice a practice of "reset of the counters" which consists in taking new detention decisions without taking into account the duration of the previous detention[64], a practice which sometimes results in long detentions, which can go up to 9 months, or even exceed one year[65]. This practice of re-detention, problematic in particular with regard to the access to effective recourse, was denounced by the ECHR in a judgment of June 30, 2020[66]. It should be noted that this judgment comes after a long series of judgments condemning Belgium for administrative detention[67], which can take place in a closed center[68] or in a return home (if it is a family with minor children)[69].

55. With regard to complaint procedures in detention, it is worth noting the existence of a Complaints Commission (having received about ten complaints since 2017 through the permanent secretariat[70]). In addition, since 2014, detainees have the possibility to file a complaint with the director of the closed center in which they are detained. In 2019, 18 complaints had been registered via the director at Caricole and, in 2020, 68 at 127 bis. A significant number of these complaints result in a decision of inadmissibility[71]. The complaint mechanism is largely unknown, outdated and unused. The criticisms and recommendations already put forward by the Center for Equal Opportunity and the Fight against Racism (former Myria) in 2008 seem to remain unchanged[72].

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62 Nansen, note 2018/01, *« Demandeurs d'asile à la frontière : procédure à la frontière : procédure à la frontière et détention »*, avril 2018.
63 Articles 7, 27 à 29, 74/5 & 74/6 LE.
64 Caritas International, CIRÉ, LDH, MRAX, *« Centres fermés pour étrangers – État des lieux »*, décembre 2016, p. 37.
65 For example, accredited NGO visitors observed - during their visits in May 2021 - detentions from 25 August 2020 and another from 27 August 2020.
66 ECHR, Muhammad Saqawat against Belgium, 30 septembre 2020, req. n°54962/18.
67 See the judgments of the European Court of Human Rights : CEDH, affaire Muskhadzhiyeva et autres contre Belgique, 19 janvier 2010, req. n°41442/07 ; CEDH, affaire Kanagaratnam et autres contre Belgique, 13 décembre 2011, req. n°15297/09 ; CEDH, affaire Yoh-Ekale Mwanje contre Belgique, 20 décembre 2011, req. n°10486/10 ; CEDH, affaire M.S. contre Belgique, 31 janvier 2021, req. n°50012/08 ; CEDH, affaire Singh et autres contre Belgique, 2 octobre 2012, req. n°33210/11 ; CEDH, affaire Firoz Muneer contre Belgique, 11 avril 2013, req. n°56005/10 ;CEDH, affaire S.J. contre Belgique, req. n°70055/10 ; CEDH, affaire, S.J., arrêt du 27 février 2014 (closed by amicable settlement after referral to the Grand Chamber) ; CEDH, affaire V.M. et autres contre Belgique, 7 juillet 2015, req. 60125/11 ; CEDH, affaire Paposhvili contre Belgique, 13 décembre 2016, req. n°41738/10 ; CEDH, affaire M.D. & M.A. contre Belgique, 19 avril 2016, req. 58689/12 ; CEDH, affaire Makdoudi contre Belgique, 18 février 2020, req. n°12848/15 ; CEDH, affaire M.A. contre Belgique, 27 octobre 2020, req. 19656/18.
68 There are currently 6 closed centres in Merkplas, Vottem, Caricole, Bruges, Zaventem - known as 127 bis - and in Holsbeek since May 2019.
69 For more details, see below.
70 According to information provided by the alien office.
71 Caritas International, CIRÉ, LDH, MRAX, *« Centres fermés pour étrangers – État des lieux »*, décembre 2016, pp. 51-52.
72 Centre pour l'égalité des chances et la lutte contre le racisme, *« La Commission des plaintes chargée du traitement des plaintes des personnes détenues en centres fermés (2004-2007) - Analyse et évaluation d'un dispositif insuffisant »*, janvier 2008.

56. Among the alternative to detention, there is only house arrest or the possibility for families to reside at home under specific conditions and with penalties in case of non-compliance. However, due to a lack of budget, this alternative only works at a very small scale. For example, in the framework of the Dublin procedure, the alien office has provided for the possibility of house arrest in Fedasil reception centers and the presence of alien office liaison officers in some reception centers.

• DETENTION OF CHILDREN FOR MIGRATION-RELATED REASONS

57. Whether they are asylum seekers or not, unaccompanied foreign children cannot in principle be detained in a detention center. However, there are two exceptions : when they are stopped at the border during the age determination (legal exception) or, when they are stopped in the territory, during the age assessment.

58. Regarding children with their families, between 2008 and 2018, they were in principle no longer detained in closed centers in Belgium as the Belgian authorities had refrained from doing so. However, since the adoption of the Royal Decree of July 22, 2018, which constitutes the new legal basis framing the detention of children in closed centers, families with minor children can again be detained in closed centers for reasons related to migration[73].

59. About 20 children were thus detained between July 2018 and April 2019. The experience of these children has reminded us again of the very serious consequences of detention on their physical and mental integrity as well as on all their fundamental rights. The medical and child psychiatric expert reports drawn up on the occasion of the detention of these families demonstrate once again the trauma and long-term consequences that this deprivation of liberty causes them[74].

60. The Committee on the Rights of the Child and the Committee on the Protection of the Rights of All Migrant Workers and Members of their families have jointly asserted that : *« Every child, at all times, has a fundamental right to liberty and freedom from immigration detention.4 The Committee on the Rights of the Child has asserted that the detention of any child because of their or their parents' migration status constitutes a child rights violation and contravenes the principle of the best interests of the child. 5 In this light, both Committees have repeatedly affirmed that children should never be detained for reasons related to their or their parents' migration status and States should expeditiously and completely cease or eradicate the immigration detention of children. Any kind of child immigration detention should be forbidden by law and such prohibition should be fully implemented in practice. »*[75]

61. The implementation of the royal decree has been suspended since April 2019, following an appeal against it to the Council of State. In its decision, the Council considers that the exposure of children detained at the 127 bis center to the considerable noise pollution caused by the immediate vicinity of an airport may constitute torture and ill-treatment. As long as this suspension is maintained, the detention is temporarily impossible, at least until the Council of State renders its final decision on the merits.

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73 Royal Decree of July 22, 2018 modifying the Royal Decree of August 2, 2002, laying down the regime and operating rules applicable to places located on Belgian territory, managed by the Alien Office, where an alien is detained, placed at the disposal of the government or kept, pursuant to the provisions cited in Article 74/8, §1er, of the Alien Law of decembre 15, 1980 on access to the territory, stay, establishment and removal of foreigners.

74 See in particular Caekelberghs E., interview with paediatrician Paulette De Baecker after her meeting with children detained in the centre, *« Une pédiatre a rencontré les enfants enfermés au 127bis »*, 29 août 2018.

75 CMW/C/GC/4 - CRC/C/GC/23, §5.

62. The agreement of the new federal government (which took office in 2020) provides that *"minors may not be detained in closed centers."* However, the government has not yet made any concrete commitment to give this prohibition a clear legal basis. In order to ensure that no children can be detained in the future, it is essential to adopt a law.

63. Regarding alternatives to detention, as it is organized today, placement in family return houses is not an alternative to detention but an alternative mode of detention. These are individual houses or apartments. There are a total of 28 units, with 169 beds in 5 rural and urban locations. The most common family profile in the houses of return is the case of families who arrive at the border and apply for international protection in Belgium[76]. Although families in the return home have a relatively large margin of freedom, they are actually detained and various restrictive measures apply to them[77]. From a legal point of view, the families in the return home are also subject to a detention order. Furthermore, the respect of the fundamental rights of the child, notably to education, health and leisure, is not fully guaranteed. In other words, the families in the houses of return are in detention[78] and this practice concerns between 200 and 400 children every year since 2011.

• MONITORING BY CIVIL SOCIETY ORGANISATIONS

64. For more than twenty years now, NGOs and associations accredited by the alien office have been visiting detention centers and return houses[79]. Each of these associations is made up of professionals who work to provide quality human and socio-legal support to migrants who are placed in detention. These associations also carry out a fundamental work of monitoring the conditions of detention. However, the work of the organizations is entirely subordinated to the accreditations delivered beforehand by the alien office. Thus, the royal decrees concerning closed centers and return houses require explicit authorization for the work of NGOs in places of detention[80]. This hinders the smooth running of visits, since the work of accredited visitors is carried out under the fear of the withdrawal of their accreditation that can happen at any given time. The precariousness of the work of NGOs in detention centers was demonstrated once again during the Covid-19 health crisis.

• IMPACT OF COVID-19 ON ADMINISTRATIVE DETENTION

65. The health crisis has significantly slowed down international migration, which has had a number of consequences for the situation of persons detained in Belgium with a view to deportation (to the country of origin, Dublin transfers or bilateral returns).

76 Plateforme mineurs en exil, *« Une alternative à la détention, efficace et respectueuse des droits de l'enfant ? »*, janvier 2021.
77 An adult member must always be present in the house, a "coach" has access to the house from 7 a.m. to 10 p.m. and does not have to announce himself and visits are limited.
78 Plateforme mineurs en exil, *« Une alternative à la détention, efficace et respectueuse des droits de l'enfant ? »*, janvier 2021.
79 Formerly known as the 'Transit Group', the coalition is now called 'Move' and includes JRS-Belgium, Vluchtelingenwerk Vlaanderen, CIRÉ and Caritas International.
80 Article 45 of the Royal Decree of 2002 and article 30 of the Royal Decree of 14 may 2009.

66. The appearance of covid-19 forced the alien office to drastically reduce the number of people detained in the closed centers. Thus, during the first weeks of the lockdown in March 2020, many detainees were released on the initiative of the OE[81] or after a judge ordered their release[82]. In contrast, and unlike Spain, where the State clearly communicated its intention not to detain migrants during the first lockdown[83], Belgium has not made any official decision or instruction in that sense. Until today, the capacity of the centers has been almost halved in order to allow the detainees to respect the social distancing[84].

67. This wave of releases was often perceived as arbitrary by the detainees : some were released and others not, without any objective criteria justifying the difference in treatment. The lack of transparency in the release policy led to feelings of injustice and frustration among the detainees, which contributed to a climate of tension in the closed centers during the first months of the health crisis[85]. In some cases, desperation led some detainees to commit suicide attempts[86].

68. The pandemic also had an impact on the regime of visits to the centers. As of March 16, 2020, it was decided that regular visits, including by NGOs, were temporarily suspended. On May 25, 2020, this measure was relaxed and very limited visits were allowed (one person per week and preferably conducted by the same person). On June 15, 2020, another relaxation followed, namely the possibility of having a visit once a week and preferably by the same person(s), but limited to two adults or one adult with two minors. If the minors are under twelve, brief hugs are allowed. Access was again restricted as of November 3, 2020, and since then only visits by one adult and two minors (and always the same person) are allowed once a week.

69. The precariousness of the work of organizations in detention facilities, as mentioned above, is confirmed by the fact that on 16 March 2020, the Aliens Office abolished the possibility for organizations to carry out their visits without proposing an alternative solution, a situation that continued until 15 July 2020[87]. At present, the room for maneuver of organizations in the detention facilities is extremely limited in that visitors do not have access to the living areas and must limit their visits to the visiting rooms to those persons who expressly request it.

70. At the same time, in April 2020, the press revealed particularly deplorable conditions of detention at the Merksplas detention center. A video, filmed with a hidden camera, inside the center showed *« food served that was largely rotten (on April 4 [2020]), a lack of respect for social distancing in the common areas, mattresses put on the floor to respect social distancing because of the presence of bunk beds, the use of isolation cell when a detainee presents symptoms of the coronavirus. »*[88]

81 Myria, *« Visites de Myria dans les centres fermés de Merksplas, Bruges et Vottem entre le 10 avril et le 14 mai 2020 dans le cadre de la pandémie de COVID-19 »*, juillet 2020, p. 6.

82 See, inter alia : TPI Bxl, 3 avril 2020, BR55.ET.113-20, TPI Bxl, 3 avril 2020, BR55.ET.112-20, TPI Bxl 3 avril 2020, BR55.ET.114-20, CA Bxl 26 juin 2020, K/1290/20.

83 JRS Europe, *« Covid-19 and Immigration detention : lessons (not) learned »*, 21 mai 2021.

84 According to information from the Secretary of State for Migration, the maximum capacity has been reduced to 294 places (instead of the usual 619) in press release of the Secretary of State for Asylum and Migration, *« Mahdi augmente la capacité des centres fermés »*, 23 janvier 2021.

85 According to information provided by the alien office.

86 According to information provided by the alien office, an Ethiopian resident of 127 bis attempted suicide on 16 April 2020 after receiving a negative decision from the Council Chamber and receiving the news that one of his friends in the centre was released.

87 In a letter dated 13 March 2020, the alien office took the decision to suspend all visits by NGOs and bodies with visiting rights (including Myria) until further notice (Myria, *« Visites de Myria dans les centres fermés de Merksplas, Bruges et Vottem entre le 10 avril et le 14 mai 2020 dans le cadre de la pandémie de COVID-19 »*, juillet 2020, p. 10).

88 RTBF, *« Nourriture avariée, cachot pour les malades, distanciation pas respectée : le quotidien dans un centre fermé au temps du coronavirus »*, 9 avril 2020.

71. Many parliamentarians mentioned this during an exchange in the chamber's internal committee, but Minister Maggie De Block (who was also in charge of health at the time) had no knowledge of the facts or the video. The alien office issued a reaction in a press release in which it described the images of the tainted sandwich as an *"occasional incident"* and confirmed that the problem of cold showers had existed for several months, specifying that a firm contacted by the building management *"has not yet been able to solve the problem"*[89]. Concerning the use of the isolation cell for quarantine of inmates, new allegations of inmates going in this direction were still heard in May 2021 in the closed center of Vottem.

72. After the "first wave" of releases in March 2020, the Belgian state continued to detain migrants even though the closure of the borders did not allow for the possibility of removal within a reasonable period of time (a necessary condition for administrative detention as provided for in articles 7, 27 to 29 and 74/5 of the Aliens Act).

73. Note, for example, that after March 2020 almost no Algerian nationals were repatriated to their country of origin from Belgium. However, about 60 Algerians have been detained in detention facilities[90]. It should also be noted that on March 2, 2021, the Moroccan Ministry of Health suspended all air passenger flights to and from Belgium in order to counter the spread of covid-19. Despite this, several closed centers have had and still have Moroccan nationals among their inmates, even though, in such a context, their return to the country is more than uncertain. Given the impossibility of repatriation, the Belgian authorities should refrain from taking such coercive measures that are prejudicial to the rights of the persons concerned, as recommended by the CPT and the SPT[91].

74. Many countries make the return of their nationals (or a Dublin return) conditional on the presentation of a negative PCR test. The fact that the PCR test has become a sine qua non condition for removal has consequences for the rights of detainees. The alien office currently interprets a refusal to undergo a PCR test as a refusal to cooperate on the part of the person concerned, which allows him or her to take a new detention permit on the basis of article 27 LE. However, individuals are not always properly informed in a language they understand of the consequences of refusing to submit to a PCR test[92]. Other problems related to the reliability of PCR tests were also noted[93].

89 Due to a change of website, their press release is currently not available.
90 According to information provided by the alien office.
91 CPT, *« Déclaration de principes relative au traitement des personnes privées de liberté dans le contexte de la pandémie de coronavirus (Covid-19) »*, CPT/Inf(2020)13, 20 mars 2020.
92 Case of a detainee who was called for a covid test without being informed of the reasons for the test. He refused the test. His refusal was considered a refusal to travel even though no one had informed him that the test was to be carried out in preparation for a flight.
93 Case of a detainee who, because of antibodies in his blood, had only positive PCR tests, which prevented his repatriation to his country of origin. His lawyer's appeal that there was no prospect of deportation was rejected by the Belgian courts.

RECOMMENDATIONS

- **Put an end to detention for administrative reasons and, in the meantime, ensure that administrative detention of migrants is used only as a very last resort, after an individual and proportionality review, and put in place alternatives to deprivation of liberty, while ensuring that these alternatives effectively replace deprivation of liberty and are not simply added to it ;**
- **Include in the law a maximum period of detention from the moment of arrest ;**
- **Provide a right for NGOs to visit all detention centres and return houses in the alien law ;**
- **Do not detain people if there is no prospect of removal within a reasonable time ;**
- **Adopt a law providing for an absolute ban on the detention of children for migration-related reasons, even as a last resort ;**
- **Establish an external and independent evaluation of return houses that takes into account the respect of children's rights.**

Prisons

List of issues prior to submission of the 4th periodic report of Belgium (CAT/C/BEL/QPR/4) –Article 11

29. With regard to the Committee's previous concluding observations (para. 15), please provide information on the measures taken to ensure that detention conditions in all places of deprivation of liberty are in conformity with the Standard Minimum Rules for the Treatment of Prisoners, 9 in particular with regard to the steps taken :

(a) To alleviate overcrowding in prisons and all places of detention by, in particular, making use of non-custodial measures as provided for in the United Nations Standard Minimum Rules for Non-custodial Measures (the Tokyo Rules) and the United Nations Rules for the Treatment of Women Prisoners and Non-custodial Measures for Women Offenders (the Bangkok Rules) ;

(b) To improve the infrastructure of prisons and all places of detention and to ensure that conditions of detention in the State party do not breed violence among prisoners ;

(c) To separate the different categories of prisoners and to ensure that remand prisoners are separated from convicts and minors are separated from adults (see A/HRC/18/3, para. 44) ;

(d) To improve working conditions for prison staff and to ensure a level of service in prisons that would ensure that prisoners' fundamental rights are respected, even in the event of a strike [...]

31. Please provide detailed information on the current level of implementation of the "Dupont Act".11 Furthermore, please inform the Committee about the changes that have been achieved, in practice, due to the above-mentioned law and the challenges that remain before it can be fully implemented.

32. With regard to the Committee's previous concluding observations (para. 19), please explain what measures have been taken to ensure that detainees with mental health problems receive suitable care. Has the State party improved the capacity of its psychiatric hospital services and facilitated access to mental health services in all prisons ? Please provide information on the measures taken to ensure that prisoner screening is in place to certify the mental state of the prison population, in conformity with the Standard Minimum Rules for the Treatment of Prisoners [..]

35. Please provide information on the State Party's efforts to comply with all of the recommendations of the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment regarding the conditions at the Prison de Forest and the Prison d'Andenne.

People with mental health problems

75. The incarceration of people with mental illnesses in prisons must be ended : this recommendation has been made many times before and the Belgian authorities have been frequently condemned for this, even to the extent of a pilot ruling by the European Court of Human Rights. This underlines once more the urgency of this issue. However, to date, and although the government seems to have become aware of the importance of this problem, in part by creating closed care facilities which are independent of prisons, the psychiatric annexes to prisons do still exist and the law of 4 May 2016 on internment and various provisions relating to justice still allows patients to be sent there.

76. Moreover, the Belgian State is persistently resorting to an illegal practice : the detention of internees in the psychiatric annexes of penitentiary institutions. Indeed, the law provides that interned persons who are granted a trial release that is revoked must be admitted to a care facility and may not be incarcerated in a prison facility under any circumstances. Despite the Belgian State being condemned by the national courts, it nevertheless perpetuates this illegal practice, incarcerating persons whose trial release is revoked in a penal institution without a valid commitment order.

77. Civil society is also concerned about the public statements that psychiatric annexes to prisons are to be converted into social defence facilities without the annexes being properly converted into health care facilities as required by law.

RECOMMENDATION
Prohibit the use of psychiatric annexes to prisons as possible places of detention.

Health in prison[94]

• INSUFFICIENT HEALTH CARE PROVISION

78. Article 88 of the 2005 Law of Principles provides that "the detainee is entitled to health care services equivalent to the care provided in free society and that are suited to his or her specific needs"[95] ; however, this equivalency is not achieved and the implementing decrees have not been adopted. To this day, the matter of prisoners' health is still within the jurisdiction of the Justice Federal Public Service (FPS). The latter has a set annual budget, which constrains financial expenditure regardless of the needs of detainees. According to the last public annual report of the Directorate-General for Prisons (DG-EPI) issued in 2017[96], only 7 % of its annual budget was dedicated to health care, although this specific population requires special health care.

79. Despite the announced transfer of power to the FPS Public Health, no specific date is currently known. This situation raises several concerns. For example, there are risks of conflicts of loyalties for health professionals. The current situation also results in the isolation of prison medical services from the university hospital sector and therefore a lack of continuous training.

94 On this subject, see also I.Care, *« L'urgence d'agir pour la santé des personnes détenues »*, March 2021.
95 Loi de principes du 12 janvier 2005 concernant l'administration pénitentiaire ainsi que le statut juridique des détenus (Moniteur belge du 1er février 2005). This extract is not an official translation of the law.
96 DG-EPI, *« Rapport annuel 2017 »*, 2018.

80. In addition to the lack of financial resources, prison health care is also affected by a lack of human resources in regard to the detainees' health needs. Our field observations reveal that health professionals in prisons work in a very precarious environment, which results in limited access to care for detainees. External medical staff are increasingly subject to significant delays in payment, which further reduces the medical offer, scarce enough in normal times. Furthermore, the penitentiary administration retains doctors whose individual and repeated dysfunctions are known to all. This situation is unacceptable.

81. It is also essential to improve mental health care and provide appropriate care for people with psychiatric disorders as well as for all detainees. The findings in this area are alarming[97]. In this regard, the CPT recommends *"greater involvement of the Federal Public Service for Public Health in the care of persons held in prisons [...]"* and to ensure the transfer of powers from the Federal Public Service for Justice to the Federal Public Service for Public Health[98]. The inadequacy of the provided care also involves over-medication for mental disorders and insufficient psychiatric staffing. As recommended by the CPT, *"the presence of psychiatrists and clinical psychologists should be strengthened in every prison that was observed in order to improve the psychiatric and psychological care of persons on remand or under sentence."*[99] In Brussels, for example, detainees can in principle be treated in the psychiatric annex of Saint-Gilles in case of serious psychological decompensation. However, due to a lack of space, such care is often not available. In addition, there are many detainees on the waiting list to see a psychiatrist and they often have to fill out numerous report forms before they can be taken into care.

82. For example, a person who had been placed in the psychiatric annex of the Saint-Gilles establishment following a psychological decompensation could not go see a psychiatrist for a month. His treatment and condition could therefore not be reassessed at regular time periods. Beyond the case of the people who are considered not liable for their actions, a significant number of detainees suffer from mental health issues that are heightened by incarceration. However, we note that the response is not up to the needs because there are very few possibilities for psychiatric and psychological consultations. Indeed, the psychologists working in the psycho-social services (SPS - internal prison social service charged with expertise and evaluation) cannot, from an ethical point of view, provide support. Their expertise is indeed crucial to the assessment of the detainees' file regarding the procedures for release on leave, prison leave or parole. At the same time, professionals from external support services for prisoners very often have limited access to prisons.

83. The CPT and your Committee have on several occasions deplored the striking lack of medical staff in view of the depth of needs, in some cases the inadequate training of medical staff and the poor quality of dental care[100]. The CPT and your Committee have

97 See particularly IPO-Belgian Branch, *« Notice 2016 - Pour le droit à la dignité des personnes détenues »*, 2016 specifically page 178 and following.

98 This extract is not the official translation of the report. CPT, *« Rapport au Gouvernement de la Belgique relatif à la visite effectuée en Belgique par le Comité européen pour la prévention de la torture et des peines ou traitements inhumains ou dégradants (CPT) du 27 mars au 6 avril 2017 »*, 8 March 2018, §107.

99 This extract is not the official translation of the report. CPT, *« Rapport au Gouvernement de la Belgique relatif à la visite effectuée en Belgique par le Comité européen pour la prévention de la torture et des peines ou traitements inhumains ou dégradants (CPT) du 27 mars au 6 avril 2017 »*, 8 March 2018, §85.

100 CPT, *« Rapport au Gouvernement de la Belgique relatif à la visite effectuée en Belgique par le Comité européen pour la prévention de la torture et des peines ou traitements inhumains ou dégradants (CPT) du 27 mars au 6 avril 2017 »*, 8 March2018, particularly pp. 8, 40, 41, 60. See also CPT, *« Rapport au Gouvernement de la Belgique relatif à la visite effectuée en Belgique par le Comité européen pour la prévention de la torture et des peines ou traitements inhumains ou dégradants (CPT) du 23 au 27 avril 2012 »*, 13 December 2012, §§27-39 ; CAT Committee, Concluding observations of the Comittee against Torture : Belgium, 19 January 2009, CAT/C/BEL/CO/2, §23.

also found that there are too many waiting days (in some cases, six months to consult a dentist) followed by a rushed consultation, which can worsen the patient's condition[101]. Currently, access to dental care remains problematic and supply does not meet demand either, resulting in particularly long waiting periods. For example, a detainee was given a dental dressing to be renewed within 10 days, but had to wait almost two months, resulting in an infection, despite several report notes being sent requesting a visit to the dentist.

84. The lack of staff in prisons also leads to numerous cancellations of medical appointments, whether at the Saint-Gilles medical and surgical centre (CMC) or at the hospital, thus delaying medical care and the provision of sometimes urgent treatment.

RECOMMENDATIONS

- **Transfer the responsibility for the health of prisoners, with the aim of achieving equivalence of health care with the free society, and in this context, ensure that this transfer of responsibility is accompanied by sufficient financial resources and include prisoners in the traditional social security system ;**
- **Urgently strengthen the medical service in some prisons, without waiting for the transfer of competences ;**
- **Ensure the quality and regular publication of demographic and socio-sanitary data within Belgian prisons ;**
- **Ensure that medical transfers are carried out within a timeframe comparable to that of the outside world.**

• MEDICAL CONFIDENTIALITY

85. During the CPT's visit to Belgium in 2017, it had identified a number of issues regarding the lack of respect for confidentiality of health care in prisons[102]. According to our observations, there have been improvements in some establishments. For example, in Berkendael prison, mailboxes have been set up to make appointments with the medical service. However, this requires detainees to fill in report cards and writing the purpose of the consultation, which is not always easy for detainees, especially for those who cannot write. This procedure also raises difficulties in terms of confidentiality. At Saint-Gilles, requests for consultation always go through the prison staff and the reason for the consultation usually has to be specified in order to have a better chance of the request being taken into account.

86. Other concerns remain. In some establishments, for example, we still find that consultations take place through the cell door window. In one establishment, this happens for example for consultations on drug use. Similarly, in some establishments, the entrance inspection for prisoners is usually carried out in the cell.

101 See for example, Commission de surveillance de Forest-Berkendael, *« Rapport annuel 2017 »*, pp. 10 and following.
102 CPT, *« Rapport au Gouvernement de la Belgique relatif à la visite effectuée en Belgique par le Comité européen pour la prévention de la torture et des peines ou traitements inhumains ou dégradants (CPT) du 27 mars au 6 avril 2017 »*, 8 March 2018.

87. Regarding treatments, some of them (except for methadone) are distributed after the end of shift of the medical staff, by prison guards, which is problematic in terms of medical confidentiality and responsibilities.

88. In addition, to our knowledge, in at least two facilities, a table in one of the prison officers' offices displays the names of detainees and is colour-coded according to their status as remand or convicted prisoners, internees or even "narcotics". This last category includes people incarcerated for drug-related offences, but also, according to our sources, people undergoing substitution treatment, i.e. medication. Here again, these practices do not respect medical confidentiality.

89. We are also concerned about the transmission of certain medical information to other prison departments. In one prison, the staff in charge of the work placement sometimes contacted the medical department to find out whether one of the detainees had hepatitis. Similarly, we were informed of the case of a person whose HIV status was revealed to the prison officer in charge of the work placement.

RECOMMENDATION
Ensure that medical confidentiality is respected both in prisons and during medical extractions.

• RESPECTING THE DIGNITY OF DETAINEES DURING MEDICAL CONSULTATIONS

90. According to our information, the confidentiality of medical consultations is not always guaranteed and thus affects the dignity of the persons involved. There are cases where several people are attending the gynaecological consultations, without their presence being required for the examination. We were informed of the case of a person who underwent an endovaginal ultrasound in front of the other members of the medical staff.

91. I.Care also carried out a short survey on transfers of detainees to hospital. It found that handcuffs or shackles were routinely worn, regardless of the detainee's profile, and some staff indicated that this was an "obligation". Similarly, many testimonies indicate that prison officers are present during hospital consultations, including for intimate examinations (gynaecological consultations, insertion of a urinary catheter) or when the persons are in a particularly vulnerable situation (care in the oncology department of very weak patients). Many people are also handcuffed during consultations or shackled in bed, regardless of how dangerous they are.

RECOMMENDATION
Ensure that the dignity of detainees is respected in all medical consultations.

Preventing suicide

92. According to our observations, surveillance and health professionals do not benefit from specific and continuous training in the prevention, detection and support of persons in suicidal crisis. Moreover, detainees who have attempted suicide often receive only increased surveillance, or even placement in an isolation cell, which is perceived as a punishment and limits the ability to talk about it.

93. Witnesses (prison officers or fellow inmates) do not receive appropriate psychological support either. This support is a "do-it-yourself" approach insofar as it is entrusted to the SPS, whose mission does not cover this in the least, and which does not have the human resources to provide it. The Concertation des Associations Actives en Prison (CAAP) has undertaken an action-research on this matter in 2020 and its findings are unequivocal[103].

RECOMMENDATIONS

- **Create support teams independent of the prison system to accompany people in suicidal crisis and/or witnesses of suicide ;**
- **Increase dialogue between the prison administration and psycho-social support services, in a broad sense ;**
- **Facilitate access to data on suicides and attempted suicides in order to understand the prevalence of the phenomenon through a quantitative analysis ;**
- **Provide better support for fellow inmates who witness a suicide or an attempted suicide ;**
- **Train prison officers in mental health.**

Solitary confinement in a punishment cell

94. In the women's prison in Berkendael, persons in solitary confinement are given a specific outfit but may not, in theory, keep their underwear on, even when they are indisposed (periods). However, some officers are willing to deviate from this rule. An officer is supposed to supervise every fifteen minutes but, to our knowledge, this is not always upheld, especially in a chronic context of understaffing. On the other hand, to our knowledge, people regularly meet with the prison management and a doctor.

95. We also heard testimony from a person who said that he had been deprived of food, water and light for almost two days when he was detained in a punishment cell. According to testimonies, some officers sometimes refuse to tell the time of day to the person placed in solitary confinement, which deprives the person of time references and makes the situation even more difficult to bear.

Food and diet

96. Article 42 of the Principles Act states that "the food of the detainee must be provided in sufficient quantity, respect modern hygiene standards and, if necessary, be adjusted to the requirements of his health condition". However, detainees very regularly complain about the insufficient amount of food and its poor quality (very little fresh fruit and vegetables, food that is sometimes out of date, etc.). The food quality is even worse in the event of a strike. However, as detainees are generally not informed in advance, they cannot prepare for the situation and buy some food from the cantina in advance, for example.

103 CAAP, *« Rapport de recherche. Prévention du suicide en milieu carcéral »,* March 2020.

97. We also note that suitable menus for different diets, whether for health or religious reasons, are not always made available to detainees.

RECOMMENDATION
Provide sufficient food and ensure a healthy, balanced diet and respect special diets (diabetics and others).

Hygiene

98. According to our information, the free sanitary napkins provided to prisoners are from another era (they do not stick, are very thick and cause irritation). Moreover, they are not individually wrapped, although they are distributed in pairs or even threes, and are therefore touched by prison officers, sometimes men, which does not make these often taboo products any easier to access.

99. The other periodical protection products available in prison are much more expensive than they would be on the outside (from +6 % to +60 % more for tampons when compared with the prices of the chain store which supplies the prison on the outside, according to a comparative study carried out by I.Care on the prices of the canteen in Berkendael and the prices of the same products in the free society). This additional cost weighs heavily on the budget of the vast majority of women prisoners, many of whom are already in very precarious financial situations.

RECOMMENDATION
Provide access, free of charge and in all circumstances, to sanitary protection adapted to the needs of incarcerated persons.

Foreign nationals

100. Linguistic barriers also constitute an important isolation risk in prisons, where no interpretation or translation services are provided. It is often other detainees or officers that serve as translators, in particular during medical consultations. Generally, the prison is not suitable for persons that are neither French-speaking nor Dutch-speaking. Many foreign nationals are not at all or not well informed about their legal situation and find it very difficult to benefit from the support of the various services to which detainees are entitled.

Prison overcrowding and detention conditions

101. Prison overcrowding is endemic in Belgium and the resulting conditions of detention lead to inhuman or degrading treatment. As a result, the Belgian state had to face/faced several convictions of violations of article 3 of the European Convention for the Protection of Human Rights and Fundamental Freedoms (ECHR)[104]. The Belgian State was also sentenced by the national judicial order for endemic prison overcrowding of a Brussels establishment[105].

104 ECHR, Sylla and Nollomont vs Belgium, 16 May 2017, req. n°37768/13 and 36467/14 ; ECHR, W.D. vs. Belgique, 6 September 2016, req. n°73548/13 ; ECHR, Bamouhammad vs Belgium, 17 November 2015, req. n°47687/13 ; ECHR, Vasilescu vs Belgium, November 25, 2014, req. n°68682/12 ; etc.
105 OIP-Belgian section, *« The Belgian State responsible for prison overcrowding »*, January 17, 2019.

102. The Belgian State must comply with the requirements of international bodies in this field, in particular of CPT[106] and of the High Commissioner for Human Rights of the Council of Europe[107], by adopting a policy that does not involve the construction of new penal institutions. As also highlighted by your Committee, *« the State party must consider instituting alternative measures to detention rather than increasing prison capacity. »*[108] The CPT points out that *« It is important, however, that priority should continue to be given to reducing the prison population and controlling it to reasonable proportion [...]. This also requires ensuring that attention is not excessively given to the increase of the total capacity of the penal institution. »*[109]

103. Prison expansion is a ploy, as many scientific studies have shown[110] : the evolution of the prison population actually depends on the implemented criminal policies[111]. In this regard, given the obvious failure of the criminal policy that has been deployed for decades and the largely counterproductive nature of freedom deprivation in many cases, it is necessary to ensure that prison sentence is truly the *ultimum remedium,* both about preventive detention and the execution of sentences.

104. This includes in particular the use of alternative sanctions. In that regard, we should on the one hand ensure the proper implementation of cooperation agreements between the Federal State and the Communities responsible for the enforcement of sanctions of unpaid work and electronic monitoring, on the other hand by developing new alternatives (special confiscation, day fines, etc.), while remaining careful not to widen the criminal net.

105. Where new establishments are still to be built, it is imperative to comply with the Council of Europe's[112] Prison Rules for the construction of small and community-based establishments, accessible to families, to lawyers and to the prison staff. However, it is not the case regarding the project of carceral establishment in Haren, planned by the Brussels authorities. In addition, prison policies must include goals for the reintegration of the detainees, in particular in order to combat recidivism.

106. In order to effectively combat the phenomenon of prison overcrowding, it is essential to fight on at least three fronts : entry flows in prison, time spent in prison, and releases from prison[113]. Firstly, preventive detention should be thoroughly reformed in order to limit its use to solely the most serious crimes and offenses. Indeed, the Act

106 CPT, *« Report to the Government of Belgium on the visit in Belgium carried out by the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) from 27 March to 6 April 2017 »*, March 8, 2018, §§36 and seq. ; see also CPT, *« Report to the Government of Belgium on the visit in Belgium carried out by the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) from 28 September to 7 October 2009 »*, July 23, 2010, §79.

107 Report by Thomas Hammarberg, Commissioner for Human Rights of the Council of Europe, following his visit to Belgium from 15 to 19 December 2008, June 17, 2009, CommDH(2009)14, p. 31, §65.

108 Committee against Torture, *« Concluding observations of the Committee against Torture – Belgium »*, November 21, 2008, CAT/C/BEL/CO/2, §18.

109 CPT, *« Report to the Government of Belgium on the visit in Belgium carried out by the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) from 27 March to 6 April 2017 »*, March 8, 2018, §38.

110 See P.V. Tournier, *« Prison Rules. Context and challenges, Center of Social History of the 20th Century »*, September 1, 2007. According to Tournier, *« Limiting overcrowding in prisons [by increasing prison capacity] can only be a short-term policy because what is necessary to avoid is the structural process that is at the origin : prison inflation »* (p. 69).

111 See also OIP-Belgian Section, *« Notice 2016 – For the right of detainees to human dignity »*, 2016 and in particular on pages 23 et seq.

112 *« Recommendation Rec(2006)2 of the Committee of Ministers to member states on the European Prison Rules »,* January 11, 2006, 952th meeting.

113 It should be noted in this regard that DG-EPI does not publish up-to-date figures and that its last annual report dates from 2017, so it is extremely difficult to make a detailed analysis of prison problems. Greater transparency is needed to combat this phenomenon.

of 20 July 1990 on preventive detention[114] is not respected or properly applied. This leads to a worrying result : 35 to 40 per cent of the detainees in Belgian prisons are in fact held in preventive detention. There is an urgent need to reform this legislation in order to limit the excessive use of preventive detention, in particular by limiting the offenses which may justify preventive detention (offenses against persons, increasing the threshold of the penalty allowing the use of preventive detention, etc.).

107. Moreover, there is a need to strengthen the recognition by the federal authorities of the missions of assistance to detainees and defendants assigned to federated entities and to implement the detention plan.

108. Although the link between the lack of a genuine policy for the reintegration of detainees and the risk of recidivism is clear[115], there is evidence of inadequate education and training of detainees during detention, which also impedes their subsequent reintegration and increases the risk of recidivism. Multiple constraints hinder the organization of educational activities in prisons.

109. The strengthening of the recognition by the federal authorities of the missions of assistance to detainees and defendants assigned to federated entities and the implementation of the detention plan are essential in this regard. This is particularly true through a more equitable redistribution of resources and the updating of obsolete collaboration protocols. Therefore, a minimum offer and the mandatory presence of training, education and professional orientation activities must be established in each prison. In addition, the establishment of a detention plan must be ensured from the outset of the detention, in accordance with the Law of Principles of 12 January 2005.

110. If the implementation of the detention plan, as provided for by the abovementioned Act of 2005, is part of the Federal Government Agreement, the financial resources should be allocated to this detention plan and to the psycho-social staff implementing it, and the federal authorities should follow regarding their own powers.

111. In addition, it is also essential to strengthen and facilitate conditional releases. Conditional release is increasingly a marginal way out for convicted people. Conditional release, however, allows for the reintegration of detainees in many cases, while those who serve their entire sentence in prison without any reintegration work present a higher risk of recidivism.

112. Conditional release (Parole) proceedings should be facilitated and granted as soon as possible in the absence of any counter-indications. This was also recommended by your Committee, which calls on the Belgian State to *« take effective measures to make the granting of conditional release (Parole) more accessible. »*[116]

113. The reintegration work must also be instituted from the beginning of incarceration, in order to ensure its efficiency and to prevent the detainees from serving their entire sentence in prison and finally being released without any kind of follow-up. Adequate resources should be allocated to the services inside the prison responsible for the preparation of reintegration (in particular psychologists, social workers), as well as to the sentence enforcement courts and legal advice centers.

114 Belgian Official Journal of August 14, 1990.
115 See, among others, P. Dermine, T. Dermine, L. Hanseeuw, J. Heymans, S. Proesmans et A. Hanard, *« Our prisons, a danger to each and every one of us »*, Friday Group, November 2018.
116 CAT/C/BEL/CO/2, §22. See also CPT, Recommendation Rec (2003) 22 about conditional release.

114. Finally, serious consideration should be given to the guidelines for the reform of penal codes and codes of criminal procedures. These have never been subject to major reforms, but rather to disparate and repeated reforms, making these codes unreadable and, in part, anachronistic (the Criminal Instruction Code dates from 17 April 1878 and the Penal Code dates from 8 June 1867). In addition, the inadequacy of the penal code also results in prison overcrowding. A reflection on criminalization and punishment is imperative, many of which are no longer adapted to current society.

115. The reform of the penal code undertaken by the government is disappointing. While eminent experts were mandated to propose such a reform, and after they had done considerable work, they were forced to resign from the Reform Commission[117]. This is due to the way in which the Government has modified the original draft presented by the Commission, in particular by placing imprisonment at the center of criminal repression, which is not likely to reduce the prison population. Criminologists are unanimous : imprisonment is criminogenic and long prison sentences are unnecessary and ineffective. The reform of the Penal Code must therefore restart on the basis laid down by the experts of the Reform Commission.

116. Moreover, these reforms must be an opportunity to lay the foundations for a policy of decriminalizing certain acts : the counterproductive and even harmful effects of criminalizing certain behaviors are obvious (drugs[118], residence right[119], squat[120], abortion[121], wearing the burqa, lese-majeste crime, etc.). A discussion should be initiated on the increasing use of criminal law tool, which often leads to more problems than the one it solves.

117. Moreover, democratic control over the definition of criminal policy should be established. While the legal texts state that criminal policy directives are issued by the Minister, after taking account the opinion of the College of Attorneys General, criminal

117 For further information, see the Superior Council of Justice, *« Opinion - Preliminary draft of the Criminal Code, Book II »*, approved by the General Assembly of the Superior Council of Justice on 19 December 2018.

118 The Law on Traffic in Venous, Soporific, Drugs, Psychotropic, Disinfectant or Antiseptic Substances and Substances that may be used for the Illicit manufacture of drugs and psychotropic substances (Belgian Official Journal of 6 March 1921) dated 24 January 1921. The 100-year-old policy of drug prohibition, which has disastrous effects, including regarding public health and the bottleneck of justice and prison systems, needs to be questioned (see the #Stop1921 campaign in particular). The spirit of the law has never been modified, it remains repressive to consumers while drug use is a public health issue first and foremost. Nearly a hundred years of criminalization of drug users did not have the desired effect : the greatest failure of prohibition is its failure to offer an adequate response in terms of consumer protection and accountability, and assistance to people suffering from illicit drug dependence. Although public health is emphasized in speeches, it is always repressive logic that prevails.

119 A foreign national who is on an irregular stay is at risk of being arrested because of his or her status when he or she goes to the police station to file a complaint or testify. This aberrant situation is the result of the combined application of Article 75 of the Act of 15 December 1980 on access to the territory, residence, establishment, and expulsion of foreign nationals (Belgian Official Journal of 31 December 1980), which makes irregular stay a crime which could be punished by imprisonment and a fine, and by the Law of 5 August 1992 on the police function (Belgian Official Journal of 22 December 1992). Under these laws, the police officer before whom the testimony or complaint is lodged is obliged to inform the Foreign Nationals Office, which in most cases will lead to the deprivation of liberty of the foreign national. Consequently, there are disgraceful situations in which victims of domestic abuse, ill-treatment, or sleep merchants, either dare not make the due denunciations or are jailed if they denounce the perpetrators of crimes committed against them. In order to ensure the effectiveness of Article 6 of the ECHR Convention on the right to a fair trial and access to justice, any person, including in irregular stay, must be able to file a complaint. The fact that there are few registered complaints does not mean that there is no problem but is indicative of the fact that people who stay irregular do not dare to report. To this end, article 75 of the Law of 15 December 1980 should be repealed because of the criminalization of the irregular stay which it entails, which threatens the exercise of their fundamental rights by the persons concerned. Otherwise, it is necessary to provide a form of immunity for any person in this situation : no victim should be disturbed, so any expulsion proceedings prevented, while the procedure to justice.

120 LDH, *« Constitutional appeal against a rogue anti-squat law »*, April 11, 2018.

121 See the *« Manifesto of the 350 »*.

policy is in fact determined by the College of Attorneys General, under the guise of the executive. It is imperative that effective democratic control is exercised over the definition of criminal policy, which determines the direction of criminal investigations and prosecutions.

118. Finally, beyond prison overcrowding, the aging of the Belgian prison establishment has a direct impact on detention conditions. For example, the material conditions in the Forest establishment remain very degraded[122] : the cells are very dark, and the windows are high, protected by bars, allowing only a low visibility on the outside. In the cell, an immensely powerful artificial light usually hinders detainees, who prefer to put a cloth in the cell to reduce the light, thus living in near darkness. There are also humidity problems. For example, in the showers, there is a lot of molds, but detainees do not have access to corrosive cleaning products, so they cannot clean them properly. In wings A and B of the prison, the cells are not equipped with toilets. Detainees have a sanitary bucket which they empty into a room called a "dump". According to the establishment's Surveillance Commission, *« a strong offensive odor results from this, mainly during strikes when detainees have very limited access to dumps ».* To limit these inhumane conditions of hygiene, the operational regulations of the Forest prison have been adapted to a semi-open regime, where detained men can leave their cells for part of the day.

RECOMMENDATIONS

- **Resolutely and imperatively fight against prison overcrowding. To do this, the Belgian State must comply with the requirements of international bodies by adopting a policy that does not consist in building new prisons ;**
- **Ensure that the prison sentence is truly the last resort, both in terms of pre-trial detention and the execution of sentences, by completing the reforms of the penal code and the code of criminal procedure started under the previous federal government ;**
- **Limit the use of pre-trial detention, in particular by limiting the offences that can justify pre-trial detention ;**
- **Reform criminal law and criminal procedure policies, pursuing a policy of decriminalisation of certain offences ;**
- **Promote the use of alternative sentences ;**
- **Promote conditional release, by facilitating the procedure and granting it as quickly as possible in the absence of counter-indications ;**
- **Implement a genuine reintegration policy, by strengthening the federal government's recognition of the federal entities' missions to help detainees and defendants, by implementing the detention plan and by allocating sufficient resources to the services responsible for preparing for reintegration ;**
- **Establish genuine democratic control over the definition and implementation of criminal policy.**

122 As shown in particular by the last annual report of the institution's supervisory committee for the year 2019.

Strikes

119. On the 4th of June 2020, the Belgian State has been convicted again for violation of article 3 (prohibition of torture and inhuman and degrading behaviors) and 13 (rights to an effective remedy) of the ECHR, due to the bad detention conditions during the strikes of the prison staff that took place from April to June 2016[123].

120. These strikes have already led to the condemnation of the Belgian State in a decision of principle issued by the ECHR in 2019[124]. For many years, the CPT had also been calling for the institution of a minimum service[125].

121. A law establishing a minimum service in the event of a prison staff strike was passed, followed by two royal implementing orders[126]. However, the recurrence of strikes in prisons continues to affect the rights and living conditions of detainees. In addition, beyond the strike movements, we note a lack of staff and numerous sick absences among prison staff, which again penalizes the detainees. On these occasions, many, if not all, activities are suspended, as well as visits. Access to the courtyard is not always guaranteed and it is common for outside services not to be able to enter the establishment. Yet, the breakdown of contacts with these services has a significant impact on reintegration work and thus, in the long term, on release.

RECOMMENDATIONS

Ensure the effective implementation of the law instituting the minimum service so that the rights guaranteed to detainees are respected (access to meals, to care, to a lawyer, to outdoor space, to relatives, to a court, to religion representatives).

Add access to psycho-social services to the list of minimum rights guaranteed during a strike period.

Management of the sanitary crisis

122. As regards the detention regime, the current health crisis has been addressed by simple instructions, issued by the Ministry of Justice and communicated to all prisons, containing exceptional measures to be implemented in prisons in order to prevent the spread of the virus. These restrictions were not provided for by the legislator or by the government as part of its special powers. This practice is unlawful and the measures implemented violate the fundamental rights of detainees in several respects.

123 ECHR, Detry and others vs Belgium, June 4, 2020, req. n°26565/16.
124 ECHR, Clasens vs Belgium, May 28, 2019, req. n°43418/09.
125 CPT, *« Public Statement of the Committee against Torture of the Council of Europe on Belgium »*, July 13, 2017.
126 Act of 23 March 2019 on the organization of prison services and the status of prison staff (Belgian Official journal of 11 April 2019) ; Royal Decree of 4 August 2019 implementing Article 19 of the Act of 23 March 2019 on the organization of prison services and the status of prison staff (Belgian Official Journal of 7 August 2019) ; royal decree of 19 November 2019 implementing articles 15 and 16 of the law of 23 march 2019 on the organization of prison services and the status of prison staff (Belgian Official Journal of December 4, 2019).

• RIGHT TO HEALTH AND RIGHT NOT TO BE SUBJECTED TO INHUMAN AND DEGRADING TREATMENT

123. Detainees are at greater risk of infection because of the infrastructure of prisons and the overall conditions of detention. Cells in many prisons cannot be ventilated, some prisoners do not have access to running water, showers are often shared and not available to prisoners on a daily basis, laundry is not washed frequently enough

124. The measures taken do not adequately ensure the reduction of sanitary risks (e.g. disinfectant wipes distributed to prisoners without access to running water in some prisons). In some prisons, areas previously condemned for insalubrity have been allocated to the sanitary isolation of prisoners. In addition, the failure of some officers to comply with sanitary measures (wearing masks) also makes the risk of contamination high.

125. On several occasions, prisons had to be confined, resulting in even worse conditions for the detainees. For example, between April and May 2021, the Forest prison was confined and several measures were implemented, with differences between the different units. In the A wing, for example, activities, work and visits were suspended and people did not have access to the yard. Once a day they had access to the 'dumping ground' to empty their toilet bucket and to the shower. Meals were distributed via the counter on the cell door.

126. With regard to vaccination against covid-19, the inter-ministerial conference on public health announced in April 2021 that the vaccination calendar would be applied in a similar way for detainees and the general population, prioritising only prison staff. In practice, this means that only people over the age of sixty-five and those with co-morbidities would be vaccinated in the first instance. The vaccination of prison staff did indeed take place. In contrast, vaccination of prisoners only started in mid-May. Consequently, for a very large majority of detainees, vaccination may not take place for many months. Contrary to what was initially announced, a glaring gap is developing between the general population and detainees. Under these conditions, it is clear that the principle of equivalence of care that should prevail and that had been announced is not being respected here[127].

• RIGHT TO RESPECT FOR PRIVATE AND FAMILY LIFE

127. The Penitentiary Laws of 2005 and 2006 organise the legal regime regarding the execution of the prison sentence. The 2005 law provides for the various rights guaranteed to prisoners within the prison, while the 2006 laws deal with rights related to early release from prison. Among these rights, the right to respect for private and family life, guaranteed by Article 8 of the European Convention on Human Rights, is reflected in the 2005 law of principles by rules allowing prison visits (with or without supervision). Maintaining family, emotional and social bonds fosters social reintegration after release from prison and reduces the damaging effects of detention. However, the Ministry's instructions have unlawfully reduced or even suppressed prisoners' contact with their families[128].

127 I.Care, *« Covid en prison : la vaccination des personnes détenues ne peut plus attendre »*, 18 mai 2021.
128 International Prison Observatory – Belgian branch, *« La crise sanitaire ne peut continuer à justifier l'atteinte au droit à la vie privée et familiale des personnes détenues et de leurs proches »*, 25 August 2020.

128. In prisons across the country, a system of visits by video conference was introduced in spring 2020. While this has helped to alleviate some of the consequences of the health crisis, access to this system is unclear and remains difficult, particularly due to the digital divide and the incapacity of some people to read and/or write in French or Dutch, both on the part of the detainees and their relatives. Finally, the few computers available for a large number of requests and the poor quality of the connection do not always allow the system to function properly.

129. In addition, in case of physical contact with their relative during visits, people are placed in quarantine for fourteen days. Unsupervised visits have been suspended since March 2020 and, although they have been resumed in some facilities, this is still not the case in the Brussels region.

• RIGHT TO A FAIR TRIAL

130. The Ministry's instructions regarding access to prisons for lawyers have led, in practice, to the impossibility for some prisoners to have access to their lawyers[129]. This lack of contact results in a violation of the right to a fair trial by preventing detainees, particularly those on pre-trial detention, from properly preparing their defence.

131. In conclusion, it should again be stressed that restricting the rights of detainees using instructions is unlawful. Democratic control is essential if such measures are to be imposed on them.

132. In exceptional times of sanitary crisis, even more than in "normal" times, the Belgian State should also take exceptional measures to reduce prison overcrowding. This makes it particularly difficult to manage the spread of the virus within the establishments and does not allow decent living conditions to be guaranteed for the detainees.

Exceptional detention regimes in the context of the fight against terrorism[130]

133. The problematic functioning of the prison administration and the opacity of the system in dealing with 'terrorist' prisoners (or those considered as such) results in particular from the confidential instructions on which the administration's decisions are based, and the vague rules governing the management of radicalised prisoners. The exchange of information, which is crucial for the proper management of radicalisation problems, is carried out with little transparency and without control, which is contrary to the recommendations made by the UN Special Rapporteur on respect for human rights while countering terrorism[131]. However, negative information leads to very real restrictions or even deprivations of liberty, which require an effective remedy to allow the information to be examined.

129 International Prison Observatory – Belgian branch, *« Nouvelles mesures en prison : violation du droit au procès équitable »*, 16 August 2020.

130 For more information, see Comité T (Vigilance Committee regarding counter-terrorism), *« Rapport 2021. Evaluation des mesures visant à lutter contre le terrorisme »*, pp. 91-106.

131 Human Rights Council, Report of the Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism after visit to Belgium, 8 May 2019, A/HRC/40/52/Add.5, §86, *"Ensure that subjecting persons deprived of their liberty to individual security regimes or measures, placing them in D-Rad :Ex wings or flagging them for showing signs of radicalization is based on individual assessments against clearly established, scientifically sound criteria and a transparent process with particular emphasis on the right to an effective review ;".*

134. Furthermore, while strict regimes within penal institutions, such as solitary confinement, are measures that cause physical and psychological damage to detainees[132], they very rarely seem to be properly motivated and respect the principle of contradictory. This applies, for example, to the use of D-Rad :Ex[133] wings, systematic body searches based on stereotyped reasons, restrictions on visits and telephone calls without offering the possibility of an adversarial debate and without a reasoned decision, or other various restrictions without the person concerned being notified of the reason for the decision. It therefore seems crucial to review the scope of the use of these measures with regard to detainees and to attach to them a strict framework that respects their fundamental rights in order to avoid any form of arbitrary decisions by the prison authorities, in accordance with the recommendations of the Special Rapporteur[134]. The implementation, on 1 October 2020, of the right of detainees to complain - before judicial bodies internal to the prison's Surveillance Commission (more precisely its complaints boards) with the possibility for these complaints boards to rescind the measure or replace it with a more appropriate or proportionate measure to the facts of which the detainee is being reproached - is a necessary, but not sufficient, first step in this process.

135. Finally, it should be noted that several detainees or former detainees in the D-Radex specific units lodged a complaint against the Belgian State, complaining about the inhumanity of their detention conditions and the lack of any possible remedy. The case was finally decided on appeal and the court agreed with the applicants that they were deprived of any effective remedy to their placement in D-Radex. The court stated that "[...] the absence of an effective remedy for the respondents to challenge their retention in the D-Radex wing - even though it involved particular conditions of surveillance and observation and other restrictions admittedly authorised by law - is established and entails a violation of Articles 6 and 13 combined of the ECHR. Thus, in Enea v. Italy [GC], 2009, § 106, the European Court stated that any restriction on the individual's civil rights must be capable of being challenged in judicial proceedings because of the nature of the restrictions and the repercussions they may have, such as the significant restrictions placed on the respondents' right to take a daily walk and exercise in this case. It is in this way that the right balance can be achieved between, on the one hand, taking into account the demands of the prison world that the State must face and, on the other, protecting the rights of the prisoner. The maintenance of the respondents in the D-Rad : Ex unit by means of possible periodic renewal decisions, the existence of which has not been demonstrated, with the absence of prior information and hearings of the respondents, the absence of medical and psycho-social examinations to periodically verify the compatibility of the maintenance of each respondent in the D-Rad : Ex unit, entails the violation of the respondents' right to an effective remedy."[135] This decision should be welcomed without reservation.

132 C. Thomas, « *L'impact des conditions de détention sur les personnes incarcérées pour faits de terrorisme »,* Final thesis for the university certificate in terrorism and radicalisation studies, ULiège, August 2019.

133 Comité T, 2019 Report, *« Rapport 2019. Le respect des droits humains dans le cadre de la lutte contre le terrorisme : Un chantier en cours »*, pp. 36-37.

134 Human Rights Council, Report of the Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism after visit to Belgium, 8 May 2019, A/HRC/40/52/Add.5, §86, *"[...] i) Ratify the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment without delay and set up an effective national preventive mechanism in compliance with the standards set up by the Protocol ;"*

135 Brussels Court of Appeal, judgment of 12 April 2021, §48 (unpublished). This is NOT AN OFFICIAL TRANSLATION of the decision in question, this free translation from French to English has been made to facilitate the reading of this report.

RECOMMENDATIONS

- **Put an end to the opacity of the system which prevents the control and rectification of information concerning detainees labelled as terrorists by the administration ;**

- **Radically limit the use of hidden strict regimes with serious consequences for prisoners and their mental health and provide strict procedural safeguards to be implemented by the prison administration.**

Violence against women and girls and domestic violence

Violence against children and educational violence

List of issues prior to submission of the 4th periodic report of Belgium (CAT/C/BEL/QPR/4) – Article 16

41. Further to the Committee's recommendation in its previous concluding observations (para. 27), please indicate which actions and measures have been taken to expressly prohibit corporal punishment of children in all settings, and, as a matter of priority, in the family and non-institutional childcare settings.17 In addition, please provide information on allocation of resources, legislative measures, advocacy campaigns and training of officials, law enforcement officers and medical personnel to combat corporal punishment of children.

136. Domestic violence is still on the rise. During the covid-19 crisis it even worsened significantly : the number of complaints of domestic violence increased by 15 to 20 % and the hotlines were saturated. The confinement caused additional tension and stress in the family environment, which may have also led to violent reactions from parents or relatives. Children exposed to domestic violence are abused children and may also be victims of direct abuse within the family. We know that hotlines experienced an increase in abuse calls in 2020[136]. Measures to combat domestic violence must systematically take into account children and the impact that this violence has on them.

137. Regarding the need for reform to prohibit corporal punishment, the Belgian government points to the existence of several criminal and civil rules that are relevant to this issue. However, it must be stressed that these norms are totally insufficient to address the problem. There is still today a significant legislative vagueness. The existing rules aim at protecting children, but do not allow to conclude that there is a clear and homogeneous framework regarding the prohibition of violence against children, and the vagueness is even more serious regarding violence used for so-called educational purposes.

138. According to the state, the prohibition of violence against children reflects the general opinion of Belgian society. The survey[137] commissioned by the Belgian section of Defence for Children International (DCI) in 2020 concerning the perception of so-called educational violence by the Belgian population shows that 74 % of the population surveyed is in favour of a bill banning violence against children for educational purposes.

139. The results of the above-mentioned survey also show that a large majority of the parents surveyed currently use punishment as a means of education, whether it is psychological or physical[138].

136 Brussels Prevention &Security, *« Focus. Les violences intrafamiliales en région de Bruxelles-Capitale en période de confinement »*, June 2020.

137 Mené par Dedicated en février 2020 auprès d'un échantillon représentatif de 2 013 personnes (18-75 ans).

138 For example, 51 % of the respondants consider that "a small slap" may be an appropriate punishment, 35 % think "bare-handed spanking" is an appropriate punishment and 29 % think "shoving or grabbing" is appropriate.

140. In its response to your Committee, the State highlights the existence of legislative advances by mentioning a 2015 resolution. Despite the multiplication of legislative proposals tabled in recent years (including two proposals that were tabled in the federal parliament in March and April 2020), none has been adopted for the time being, whereas more than sixty countries have already legislated on the subject, including 23 in the European Union.

141. Moreover, the Communities are competent for the prevention of violence and awareness-raising actions. However, at the level of the French-speaking community, the YAPAKA program, which is responsible for the prevention of maltreatment, has publicly taken a position against the adoption of a law prohibiting ordinary "educational" violence within the family. While we applaud the program's actions in terms of prevention, we wonder about the impact of such a message sent to society and the inconsistency that reigns on this subject between the different levels of power.

RECOMMENDATIONS

- **Support and complete a civil law reform by adopting a law clearly prohibiting the use of physical and psychological violence, including for educational purposes, and aimed at promoting non-violent education. We specify that a penal reform is not recommended ;**

- **Develop high visibility prevention campaigns aimed at various audiences (parents and children, medical sectors, childcare sectors, midwifery networks, etc.). The current approach seems to focus more on the issue of abuse without really investing in a fundamental pillar of prevention : parenting education.**

Gender-based violence

List of issues prior to submission of the 4th periodic report of Belgium (CAT/C/BEL/QPR/4) – Article 16

42. Please provide updated information on measures taken to adequately prevent, combat and punish violence against women. In that respect, please indicate whether corporal punishment of girls and women in all settings, including schools, institutions and the home, is explicitly prohibited under national law and, if not, what efforts are being undertaken to remedy that. In addition, please provide information on allocation of resources, legislative measures, advocacy campaigns and training of officials, law enforcement officers and medical personnel to combat violence against women.

• NATIONAL ACTION PLAN TO COMBAT ALL FORMS OF GENDER-BASED VIOLENCE

142. The last National Action Plan (NAP) to combat all forms of gender-based violence dates from 2015 and covered the years 2015-2019. To date, there has been no evaluation of this plan, no plan covering the year 2020, and as of May 2021, the announced 2021-2025 plan has still not been adopted.

143. Some areas, such as sports and leisure, seemed to be neglected in the previous plan. Girls, like boys, have a right to participate in sports and leisure activities, which are essential for their development and health. Physical, verbal, psychological and sexual

violence are also present in this sector. In many cases, the victims are female[139]. The Belgian government is committed to collecting data on all forms of violence. However, we note the absence of research on abuse and violence in the field of extracurricular activities in Belgium[140].

144. We can also mention one of the priorities of the previous NAP which aimed to "take into account the gender dimension in asylum/migration policies", particularly in the area of reception of applicants for international protection (depending on Fedasil or other similar centers). However, the data collection carried out by DCI-Belgium in the framework of the BRIDGE[141] project currently shows a lack of procedures for the detection, management and follow-up of cases of gender-based violence within the reception centers, as well as a lack of knowledge on the part of the professionals within them. The lack of training (initial and ongoing) on this issue, as well as structural difficulties, do not allow for real prevention of violence and adequate support for victims. Belgium must impose the existence of procedures for the identification, orientation and follow-up of cases of violence in reception centers.

145. The prevention of violence and the protection of women and girls in shelters must also be given greater consideration, including the improvement of infrastructure and the creation of safe spaces (housing, sanitation, child-friendly spaces).

146. Finally, it seems appropriate to highlight the inequalities that affect the most vulnerable women, as revealed even more during the crisis period caused by the covid-19 pandemic. The imposed confinement has exacerbated violence against women, both domestic violence and institutional violence. Women living in a precarious context, particularly in an irregular situation, face increased difficulties in accessing primary needs, particularly health care[142]. The Belgian authorities must put in place a specific response to the needs of all migrant women and girls, regardless of their status and situation, in order to truly take into account the gender factor in the reception and migration policies in Belgium.

• COUNCIL OF EUROPE CONVENTION ON PREVENTING AND COMBATING VIOLENCE AGAINST WOMEN AND DOMESTIC VIOLENCE.

147. Beyond the NAP, in 2016 Belgium ratified the Council of Europe Convention on Preventing and Combating Violence against Women and Domestic Violence, known as the Istanbul Convention. Since this ratification, two reports - one by the Together Against Violence coalition[143] released in February 2019 and the other by the Group of Experts on Combating Violence against Women and Domestic Violence (GREVIO[144]) released in September 2020 - point to some improvements, but mostly estimate that as of February 2019, 80 % of the measures of the Istanbul Convention were not or only slightly complied with. Even though the situation has improved since then, in particular thanks to several measures put in place urgently during the health crisis

139 Sexual violence among young sportsmen and sportswomen : 17 % of girls victims versus 11 % of boys in Vertommen et al. *« Interpersonal violence against children in sport in the Netherlands and Belgium. »* Child Abuse & Neglect 51 (2016) 223-236). Sexual harassment among young sportsmen and women : 34 % girls victims vs. 17 % boys in Alexander, Stafford and Lewis, *« The experiences of children participating in organized sport in the UK, »* 2011.

140 The exception is the work of Tine Vertommen (in the sports sector).

141 See Projet de lutte contre la violence basée sur le genre à l'encontre des enfants migrants on the DCI-Belgium website.

142 See in particular the dossier *« Coronavirus, confinement et déconfinement »* in Vie Féminine, especially concerning access to emergency medical aid for undocumented persons.

143 Together Against Violence coalition, *« Évaluation de la mise en œuvre de la Convention du Conseil de l'Europe sur la prévention et la lutte contre la violence à l'égard des femmes et la violence domestique par la Belgique »*, februari 2019.

144 GREVIO, « Rapport d'évaluation de référence. Belgique », 21st september2020.

(increase in the number of shelters, funding for hotlines, etc.), the situation remains critical today. Belgium's obligation to provide gendered statistics is still not respected and it is civil society associations that collect the data to calculate the number of feminicides each year.

148. While the Istanbul Convention specifies that violence against women can result in "physical, sexual, psychological or economic harm or suffering" and mentions in its preamble a certain number of serious forms of violence to which women and girls are often exposed, the Belgian state must broaden its approach to violence. Indeed, many forms of violence are still invisible and unknown, such as psychological violence, economic violence, sexism, cyber-stalking, obstetrical and gynecological violence. This lack of knowledge is due to several factors such as the lack of studies, the taboos surrounding certain forms of violence, the lack of funding in the field, etc. It is therefore a matter of respect for the integrity of women and the achievement of equality between women and men that these forms of violence are taken into account by the Belgian State.

• LEGISLATION AND LEGAL CHAIN

149. The fight against violence also involves improving legislation and the judicial treatment of cases of violence. However, the legislation applicable to the fight against gender violence is abundant but not very effective. This is why it is necessary to evaluate this legislative corpus (the circulars of the College of Public Prosecutors COL 3/2006 and COL 4/2006 which promote a policy of "zero tolerance" against violence against women, the penal code regarding sexual assault, the law against sexism in the public space, etc.). A reform of the criminal code and of the provisions on sexual offences is on the agenda of several ministers and secretaries of state but, unfortunately, it seems that a return to moral order and more repression are favoured, whereas the Belgian state is expected to tackle the core of the problem and curb a well-established social phenomenon. Politicians are often reluctant to set up large budgets to fight against violence. However, violence has an enormous cost for society, which is estimated at 16 billion euros at the European level and 439.45 million euros for Belgium.

150. In his general policy note, the Federal Minister of Justice specifies that *"[...] we are asking for an additional opinion from this commission [of experts on the reform of the penal code] concerning certain missing subjects [such as] feminicide [...]".*[145] It seems to us necessary that a reflection be carried out on this theme in order to respond and counter this most extreme form of violence.

151. The adoption of a framework law that includes legal, psychosocial and economic prevention of violence and considers children as direct victims, like the one adopted in Spain in 2004, should be studied. It is through a transversal approach focused on prevention that such violence will be reduced.

152. Work must also be carried out within the judicial chain. GREVIO stresses the lack of transversality in the approach to the fight against violence, the lack of coordination between the different bodies in charge of the fight against violence against women, the lack of data collection by the judiciary regarding gender violence and the insufficient attention to violence against women at the court level. Some improvements should be mentioned, such as the introduction of training in sexual and domestic violence for all magistrates in the year of their appointment. This modification of

145 This translation is not an official one, this document only exists in French and Dutch.

the judicial code is a good step forward but we have no details on the number of hours of this training and whether its content will be evaluated. As for the police, who are very often on the front line, they still do not have access to regular training on violence, such as training on domestic violence, which allows them to understand the phenomenon of control, which is currently often misunderstood. The police are sometimes not even aware of the law that may apply (e.g., the law on sexism in the public space, where some testimonies report that the police refused to register their complaint, or told them that this law did not exist). During the Covid-19 crisis, there was a lack of coordination between the different police zones in Brussels. The Brussels-North police zone decided, at the beginning of the lockdown, to contact the victims who had previously filed a complaint, a proactive approach that should be welcomed, whereas the other police zones were slow to follow this approach, which fortunately became more widespread. Thus, there was a significant disparity in the handling of these issues from a geographic perspective.

153. Currently, there are still too few of these measures, as 70 % of domestic violence complaints and 53 % of rape cases are dismissed. In 2019, a study showed that out of 100 rape cases, the perpetrator remained unknown in half of the cases. Of the remaining 50, four were tried : three were given a suspended sentence and one received an actual prison sentence. These figures demonstrate the trivialization of violence against women and girls by the police and the justice system and the need for coordinated government action at all levels.

• QUESTIONING OF THE MEASURES ADOPTED BY THE BELGIAN AUTHORITIES

154. Several measures have been adopted to combat violence against women and girls, but these need to be improved.

155. Concerning the Domestic Violence Hotline, the toll-free number 0800/30 030 is accessible from Monday to Friday from 9 :00 a.m. to 7 :00 p.m., except on public holidays. Outside of these hours, a switchover is planned to 107 to ensure continuity of service 24 hours a day, 7 days a week. However, unlike the domestic violence hotline, the people who answer 107 are not trained in domestic violence, which means that the domestic violence hotline is not really open 24 hours a day.

156. In addition, only 15 % of young people in Brussels have received an activity related to education in relational, affective and sexual life (EVRAS), even though this is the key to teaching young people the notions of consent, the deconstruction of gender relations that are often the source of violence, etc.

157. Finally, the sexual assault car centers sexual are multidisciplinary centers that provide medical, psychological, forensic and police services for filing complaints. Medical follow-up is also offered. According to the first evaluation of the CPVS in 2020[146], the existence of these centers would reverse the trend in filing a complaint : 68 % of people file a complaint in the CPVS compared to 10 % outside of these centers. There are currently 3 centers, which is not enough to meet the demand, but additional centers are planned.

146 Institute for the Equality of Women and Men, *« Première évaluation des centres de prise en charge des violences sexuelles »*, 2020.

• FEMALE GENITAL MUTILATION

158. As for female genital mutilation, a 2018 study[147] gives more precise figures on this problem in Belgium. According to this study and on average, 17,575 girls and women born in a country where female genital mutilation is practiced and residing on Belgian territory are most likely already circumcised and 8,342 girls and women born in Belgium are at risk of being so. In addition, we must take into account asylum seekers (1,155) and women in an irregular situation (86) who are also either already excised or at risk of being excised. If we compare these figures to the 2012 prevalence study, we notice that they are increasing. Indeed, the figures were 13,112 girls and women cut and 4,084 girls at risk in Belgium. No action appears to have been taken since this finding of increase.

159. Since the end of 2019, the Office of the Commissioner General for Refugees and Stateless Persons no longer recognizes the refugee status of the parents of minors at risk of female genital mutilation. The parents will then have to go to the Office of Foreigners in order to have their situation regularized which leads them to have to spend 6 months, a year or even two years in the greatest precariousness and illegality. This new measure is inadmissible because it forces mothers and/or fathers to separate from their daughter threatened with excision.

• FORCED MARRIAGE

160. Between the beginning of 2016 and the end of 2020, 260 people were referred to the correctional court for alleged involvement in forced marriage. However, according to civil society, these numbers fall far short of reality. Forced marriages have been on the rise since 2015, yet they were not mentioned in the Secretary of State for Equal Opportunity's policy brief. It is therefore essential that measures are included in the NAP against gender violence 2021-2025, such as improved reporting systems, awareness campaigns, etc

• SEMANTIC

161. In general, the choice of terms used in the fight against violence against women and girls should not be overlooked. Through awareness-raising campaigns or the adoption of legislative or policy measures, the Belgian state can have an impact on the perception of such violence. For example, the use of the term "honor killing" is criticized because it has a private connotation and tends to justify a murder motivated by patriarchal society as "honor killing", whereas feminicides are structural, international and unjustifiable problems that should be treated as such. We wish that politicians and the judicial chain be trained to use a vocabulary adapted to the context of the fight against violence against women.

• FAMILY JUSTICE CENTERS

162. The Family Justice Centers (FJC) are specialized and multidisciplinary places, intended to welcome and accompany victims and perpetrators of intrafamily and conjugal violence. There are currently three of them in Belgium (all in Flanders), and other projects will soon be completed in other cities. In order to make their work effective, it is necessary to involve the associations, to adopt an approach based on violence as a relationship of domination and to make the financing sustainable[148].

147 Institute for the Equality of Women and Men *« Estimation de la prévalence des filles et femmes ayant subi ou à risque de subir une mutilation génitale féminine vivant en Belgique, 2018 »*, 2018

148 Université des femmes, *« Les family justice center, des modèles à suivre ou à déposer ? »*, november 2019.

• THE ROLE OF ASSOCIATIONS

163. The associations fighting for women's rights, the field associations that help women in situations of domestic violence and others are victims of chronic underfunding that prevents them from carrying out their missions.

164. The sustainability of the associations' funding is inevitable because, with the covid-19 crisis, many associations suffered from a lack of subsidies and many women in very precarious situations no longer had a place to take refuge.

RECOMMENDATIONS

- **Extend the fight against violence against women and girls to all forms of violence, whether economic, physical, sexual or psychological ;**
- **Adopt a national action plan 2021-2025 to combat all forms of gender-based violence, including forced marriage, female genital mutilation and feminicide ;**
- **Collect data on violence against children and women ;**
- **Take concrete measures to comply with the obligations contained in the Istanbul Convention ;**
- **Pay close attention to certain sectors, such as the sports and leisure sector, by adopting incentives - and even binding measures - to ensure that sports and leisure organizations adopt child protection policies to guarantee the well-being of children, especially girls ;**
- **Impose the existence of procedures for identifying, referring and monitoring cases of violence in reception centers ;**
- **Improve infrastructure and allow for the creation of safe spaces (housing, sanitary facilities, child-friendly spaces) to strengthen the prevention of violence and the protection of women and girls in shelters ;**
- **Implement a specific response to the needs of all migrant women and girls, regardless of their status and situation, in order to truly take into account the gender factor in reception and migration policies in Belgium ;**
- **Evaluate the applicable legislative corpus in terms of the fight against gender-based violence ;**
- **Generalize the EVRAS in all schools ;**
- **Perpetuate the funding provided to associations active in the fight against violence against women and girls.**

List of issues prior to submission of the 4th periodic report of Belgium (CAT/C/BEL/QPR/4) – Article 11

34. With regard to the Committee's previous concluding observations (para. 25), please provide detailed information on the steps taken to establish a system of juvenile justice that fully conforms to the provisions of the Convention on the Rights of the Child, in law and in practice, and to ensure that persons under the age of 18 are not tried as adults.

165. Divestment is the possibility for the youth judge to relieve himself of a case concerning a child who was between 16 and 18 years of age at the time of the offence, in favour of another court which will judge him according to common criminal law and procedure, under certain conditions relating in particular to the seriousness of the offence, the appropriateness of the measures and the personality of the young person.

166. Divestment is therefore contrary to all international standards relating to child justice and in particular the International Convention on the Rights of the Child (articles 37 and 40) in that it allows a child to be tried as if he or she were an adult.

167. Despite the recent reforms relating to juvenile justice adopted in the French Community[149], the Flemish Community[150] and the Joint Community Commission (in charge of community competences in the Region of Brussels-Capital)[151], divestment remains applicable in all communities in Belgium (also in the German-speaking Community).

RECOMMENDATION
Reform laws on justice for children in conflict with the law to put an end to divestment.

149 French Community, Decree « portant le code de la prévention, de l'aide à la jeunesse et de la protection de la jeunesse », 18 January 2018, see particularly article 184.
150 Flemish Authority, Decree on the right in matters of juvenile delinquency, 15 February 2019, see particularly article 38.
151 Commission Communautaire Commune de Bruxelles-Capitale, ordonnance relative à l'aide et à la protection de la jeunesse, 16 May 2019, see particularly article 89.

General information regarding other measures and developments relating to the implementation of the Convention in the State party

46. Please provide detailed information on any other relevant legislative, administrative, judicial or other measures taken since the consideration of the previous periodic report that implement the provisions of the Convention or the Committee's recommendations, including institutional developments, plans or programmes and, in particular resources allocated and statistical data or any other information that the State party considers relevant.

Defending access to justice and extending legal aid

List of issues prior to submission of the 4th periodic report of Belgium (CAT/C/BEL/QPR/4) – General information regarding other measures and developments relating to the implementation of the Convention in the State party

168. Access to justice is a fundamental principle of the rule of law. Without it, citizens cannot be heard, exercise their rights, challenge possible discriminatory measures or hold public authorities accountable. The past legislature has seen the adoption of measures that fundamentally challenge the principles underlying the right of access to justice. This has led civil society to successfully lodge an annulment petition[152] before the Constitutional Court against the law of 6 July 2016 amending the Judicial Code with regard to legal aid[153]. Despite this constitutional victory, the reform remains in force in its other aspects and continues to discourage access to justice for the most precarious, as the right of access to justice remains an illusion for many people[154]. Thus, despite the recent increase in the amount below which a litigant can claim legal aid (based on "means of subsistence")[155], the obstacles built by this 2016 reform prevent some litigants who would otherwise be entitled to it from having access to legal aid.

169. The legitimacy of this right should be forcefully reaffirmed and its application guaranteed through the legal aid system. This guarantee requires adequate funding and could be achieved through the establishment, in the long term, of a form of mutualisation of legal costs.[156]

152 Constitutional Court, ruling no. 77/2018 of 21 June 2018.
153 Belgian Official Journal (Moniteur belge), 14 July 2016.
154 or an illustration of these problematics, see : Plateforme Justice pour tous, *« Livre Noir – La réforme de l'aide juridique de 2e ligne : un jeu d'échec »*, September 2017.
155 *Law of 31.07.2020 modifiant le Code judiciaire afin d'améliorer l'accès à l'aide juridique de deuxième ligne et à l'assistance judiciaire par l'augmentation des plafonds de revenus applicables en la matière* (Belgian official Journal (Moniteur belge) 6 August 2020), p. 57845.
156 It is also necessary to simplify the language of the judiciary to make it more accessible to citizens, as recommended by the Superior Council of Justice (Conseil Supérieur de la Justice, Projet Epices - Le langage clair au menu du judiciaire, Rapport approuvé par l'Assemblée générale du Conseil supérieur de la Justice le 14 mars 2018).

Developing a policy consistent with the obligations under the Arms Trade Treaty

List of issues prior to submission of the 4th periodic report of Belgium (CAT/C/BEL/QPR/4) – General information regarding other measures and developments relating to the implementation of the Convention in the State party

46. Please provide detailed information on any other relevant legislative, administrative, judicial or other measures taken since the consideration of the previous periodic report that implement the provisions of the Convention or the Committee's recommendations, including institutional developments, plans or programmes and, in particular resources allocated and statistical data or any other information that the State party considers relevant.

170. The Belgian state has signed and ratified the UN Arms Trade Treaty. However, it blatantly violates this Treaty by allowing arms exports to states involved in serious violations of international humanitarian law. Article 7 of the Treaty enshrines a precautionary principle in the context of arms exports. However, the Walloon Region grants export licences towards the Kingdom of Saudi Arabia, among others, in violation of European and Walloon law, as evidenced by the multiple suspensions by the Council of State[157] of the decisions of the Walloon Minister-President to grant export licences towards Saudi Arabia to Walloon arms companies[158]. It is essential to guarantee the respect of fundamental rights as well as greater transparency in the issuing of licences for the export of arms to foreign countries by thoroughly amending the Walloon decree of 21 June 2012 on the import, export, transit and transfer of civilian arms and defence-related products[159].

Repatriation of Belgian children and women from Iraq and Syria[160]

171. Although this issue is not addressed in the list of issues, and consequently not in the Belgian State's response, it is essential when examining Belgium's implementation of the Convention to take into account the Belgian children and women who are still detained in the armed conflict zones in Syria and Iraq.

172. In the camps, the humanitarian emergency is no longer to be demonstrated. Among other things, contagious diseases are spreading, access to healthcare, water, food and hygiene is extremely difficult and violence is increasing, particularly against women and children. The physical and psychological integrity of these children is increasingly affected ; their right to life, survival and development cannot be guaranteed in this context.

173. While we welcome the Belgian government's recent commitment to repatriate all children under the age of 12, we recall that all children (i.e. anyone under the age of 18) should be repatriated as a matter of urgency. All women should also be repatriated whether because they are mothers or simply because they face no real prospect of trial there.

157 See for example Counsil of State, decision n°249.991, 5 March 2021.

158 See, among other, releases for the Human Rights League *« Exportations d'armes wallonnes : nouveau recours au Conseil d'État contre plusieurs licences à destination de l'Arabie saoudite »* 14 September 2020 ; *« Commerce des armes wallonnes : la CNAPD, la LDH, Vredesactie et Amnesty International saluent une décision capitale prise par le Conseil d'État »* 9 March 2020 et *« Suspension par le Conseil d'Etat des licences d'exportation d'armes wallonnes vers l'Arabie Saoudite : une décision historique »* 29 June 2018.

159 Belgian Official Journal (Moniteur belge) 5 July 5 2012.

160 Including children born in the conflict zone of a Belgian parent, who could duly be recognised as nationals

RECOMMENDATIONS

- **Use all means at Belgium's disposal to repatriate Belgian children and women, regardless of their age or suspected involvement in the armed conflict ;**

- **Do everything in its power to ensure that upon their return, these children receive the assistance they need within the framework of the youth protection and assistance systems.**

Summary of the recommendations outlined in this report

Cross-cutting issues

1. Continue to defend the establishment of a proper national human rights institution, competent to ensure the respect of all fundamental rights applicable in Belgium and provided with the necessary means to fulfil its mission.

2. Ratify the OPCAT as soon as possible and establish an NPM with adequate legal, financial and human resources to ensure effective, independent and impartial external monitoring of all places where people are deprived of their liberty, in accordance with the OPCAT requirements.

The Federal State should :

3. Integrate the Istanbul Protocol into Belgian legislation to provide a frame of reference for the medical, police and judicial bodies. The law of 22nd August 1992 on the police function should be amended to this end, as should the law of 22nd April 2019 on the quality of health care practice or, otherwise, by creating ad hoc legislation ;

4. Include in the Police Service Act the obligation to carry out a summary medical examination before any detention ;

5. Ensure that whenever injuries consistent with allegations of ill-treatment made by a patient are recorded (or indicative of ill-treatment, even in the absence of allegations), the finding is immediately and systematically brought to the attention of the competent prosecutor. The results of the examination should also be made available to the patient concerned and, with his or her consent, to his or her lawyer ;

6. Set up care services specifically dedicated to the examination of persons deprived of their liberty, staffed by specialised doctors, with suitable facilities and the time needed to draw up a report in accordance with the Istanbul Protocol[161] ;

7. Adapt the initial training of the medical staff, the police and the judiciary (lawyers, magistrates, judges, prison staff) and include an introduction to the use of the Istanbul Protocol ;

8. Adopt a directive recalling the obligations of the police forces regarding medical assistance, in particular the necessity for a strict compliance with police and medical ethics (no examination in the presence of a police officer if the doctor does not require it, no handcuffs to be worn during the medical examination if the situation does not require it, no receipt of medical certificates of the person deprived of liberty, allow practitioners to carry out their mission without pressure, etc.) ;

161 This is the case, for example, in the pilot project of the center for the treatment of sexual violence at Saint Peter's Hospital in Brussels.

9. Adopt the implementing decrees that are necessary to comply with the legal obligation to have a register of deprivation of liberty (as required by international bodies and Committee P) and those necessary to comply with the legal obligation to guarantee the right to medical assistance of persons deprived of liberty, as required by Committee P.

The medical authorities should :

10. Recall to all medical staff the legal and ethical obligations of practitioners when examining a person deprived of liberty ;

11. Require that medical examinations of persons deprived of their liberty can be carried out in complete confidentiality unless police presence is required for security reasons ;

12. Not transmit medical documents to other persons than the patient. As noted by the CPT, the findings of the doctor, including the injuries, the statements of the person concerned regarding the origin of those injuries, and the possible compatibility of those injuries with the statements of the person concerned, should be recorded in a medical certificate which should only be made available to the person deprived of liberty who has been examined and/or, at his or her request, to his or her lawyer ;

13. Ensure that the information recorded in medical files is sufficiently accurate and complete. As the CPT[162] recalls, the medical file drawn up following the examination of a patient showing signs of injury should contain :
    i) a full report of the statements made by the person concerned which are relevant to the medical examination (including a description of his or her state of health and any allegations of ill-treatment) ;
    (ii) a full report of the objective medical findings based on a thorough examination ;
    (iii) the doctor's conclusions in the light of points (i) and (ii) regarding whether the statements made as to the origin of the injuries are consistent with the objective medical findings.

Inhuman and degrading treatments by law enforcement officers

14. Collect data to document and analyse interventions of the law enforcement members.

15. Ensure the identification of the law enforcement members ;

16. Impose an obligation to motivate the intervention of the law enforcement members ;

17. Guarantee the right to film and to take photo of law enforcement interventions ;

18. Ensure that medical information are taken into account, in particular by strictly applying the Istanbul Protocol ;

19. Ensure the effectiveness of the complaint's mechanisms, in particular by guaranteeing the independence of the investigation department of the Permanent Control Committee of the Police Services (Committee P), in accordance with international recommendations ;

162 CPT, « Report to the Government of Belgium on the visit to Belgium carried out by the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) from 27th March to 6th April 2017 », 8th March 2018

20. Invest in the training of officers, both initial and continuous ;

21. Adopt a genuine proactive diversity policy within the police service and take the necessary steps to put an end to the issue of racism.

Rights of foreign nationals

22. Ensure independent monitoring of the execution of forced return measures ;

23. Guarantee to all applicants an independent and thorough examination and an effective appeal within a timeframe that allows them to adequately prepare their application and their defence, including under the accelerated and priority procedures ; ;

24. Guarantee the reception right for all applicants for international protection and strengthen the support of unaccompanied foreign minors. ;

25. Put an end to detention for administrative reasons and, in the meantime, ensure that administrative detention of migrants is used only as a very last resort, after an individual and proportionality review, and put in place alternatives to deprivation of liberty, while ensuring that these alternatives effectively replace deprivation of liberty and are not simply added to it ;

26. Include in the law a maximum period of detention from the moment of arrest ;

27. Provide a right for NGOs to visit all detention centres and return houses in the alien law ;

28. Do not detain people if there is no prospect of removal within a reasonable time ;

29. Adopt a law providing for an absolute ban on the detention of children for migration related reasons, even as a last resort ;

30. Establish an external and independent evaluation of return houses that takes into account the respect of children's rights.

Prisons

31. Prohibit the use of psychiatric annexes to prisons as possible places of detention ;

32. Transfer the responsibility for the health of prisoners, with the aim of achieving equivalence of health care with the free society, and in this context, ensure that this transfer of responsibility is accompanied by sufficient financial resources and include prisoners in the traditional social security system ;

33. Urgently strengthen the medical service in some prisons, without waiting for the transfer of competences ;

34. Ensure the quality and regular publication of demographic and socio-sanitary data within Belgian prisons ;

35. Ensure that medical transfers are carried out within a timeframe comparable to that of the outside world ;

36. Ensure that medical confidentiality is respected both in prisons and during medical extractions ;

37. Ensure that the dignity of detainees is respected in all medical consultations.

38. Garantir le respect de la dignité des personnes détenues lors de toutes les consultations médicales.

39. Create support teams independent of the prison system to accompany people in suicidal crisis and/or witnesses of suicide ; ;

40. Increase dialogue between the prison administration and psycho-social support services, in a broad sense ; ;

41. Facilitate access to data on suicides and attempted suicides in order to understand the prevalence of the phenomenon through a quantitative analysis ;

42. Provide better support for fellow inmates who witness a suicide or an attempted suicide ;

43. Train prison officers in mental health ;

44. Provide sufficient food and ensure a healthy, balanced diet and respect special diets (diabetics and others) ;

45. Provide access, free of charge and in all circumstances, to sanitary protection adapted to the needs of incarcerated persons.

46. Resolutely and imperatively fight against prison overcrowding. To do this, the Belgian State must comply with the requirements of international bodies by adopting a policy that does not consist in building new prisons ;

47. Ensure that the prison sentence is truly the last resort, both in terms of pre-trial detention and the execution of sentences, by completing the reforms of the penal code and the code of criminal procedure started under the previous federal government ;

48. Limit the use of pre-trial detention, in particular by limiting the offences that can justify pre-trial detention ;

49. Reform criminal law and criminal procedure policies, pursuing a policy of decriminalisation of certain offences ;

50. Promote the use of alternative sentences ;

51. Promote conditional release, by facilitating the procedure and granting it as quickly as possible in the absence of counter-indications ;

52. Implement a genuine reintegration policy, by strengthening the federal government's recognition of the federal entities' missions to help detainees and defendants, by implementing the detention plan and by allocating sufficient resources to the services responsible for preparing for reintegration ;

53. Establish genuine democratic control over the definition and implementation of criminal policy.

54. Ensure the effective implementation of the law instituting the minimum service so that the rights guaranteed to detainees are respected (access to meals, to care, to a lawyer, to outdoor space, to relatives, to a court, to religion representatives) ;

55. Add access to psycho-social services to the list of minimum rights guaranteed during a strike period.

56. Put an end to the opacity of the system which prevents the control and rectification of information concerning detainees labelled as terrorists by the administration ;

57. Radically limit the use of hidden strict regimes with serious consequences for prisoners and their mental health and provide strict procedural safeguards to be implemented by the prison administration.

Violence against women and girls and domestic violence

58. Support and complete a civil law reform by adopting a law clearly prohibiting the use of physical and psychological violence, including for educational purposes, and aimed at promoting non-violent education. We specify that a penal reform is not recommended ;

59. Develop high visibility prevention campaigns aimed at various audiences (parents and children, medical sectors, childcare sectors, midwifery networks, etc.). The current approach seems to focus more on the issue of abuse without really investing in a fundamental pillar of prevention : parenting education.

60. Extend the fight against violence against women and girls to all forms of violence, whether economic, physical, sexual or psychological ;

61. Adopt a national action plan 2021-2025 to combat all forms of gender-based violence, including forced marriage, female genital mutilation and feminicide ;

62. Collect data on violence against children and women ;

63. Take concrete measures to comply with the obligations contained in the Istanbul Convention ;

64. Pay close attention to certain sectors, such as the sports and leisure sector, by adopting incentives - and even binding measures - to ensure that sports and leisure organizations adopt child protection policies to guarantee the well-being of children, especially girls ;

65. Impose the existence of procedures for identifying, referring and monitoring cases of violence in reception centers ;

66. Improve infrastructure and allow for the creation of safe spaces (housing, sanitary facilities, child-friendly spaces) to strengthen the prevention of violence and the protection of women and girls in shelters ;

67. Implement a specific response to the needs of all migrant women and girls, regardless of their status and situation, in order to truly take into account the gender factor in reception and migration policies in Belgium ;

68. Evaluate the applicable legislative corpus in terms of the fight against gender-based violence ;

69. Generalize the EVRAS in all schools ;

70. Perpetuate the funding provided to associations active in the fight against violence against women and girls.

Child justice

71. Reform laws on justice for children in conflict with the law to put an end to divestment.

General information regarding other measures and developments relating to the implementation of the Convention in the State party

72. Use all means at Belgium's disposal to repatriate Belgian children and women, regardless of their age or suspected involvement in the armed conflict ;

73. Do everything in its power to ensure that upon their return, these children receive the assistance they need within the framework of the youth protection and assistance systems.

Signatory organisations :