



**International Convention on
the Elimination
of all Forms of
Racial Discrimination**

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COMMITTEE ON THE ELIMINATION
OF RACIAL DISCRIMINATION
Seventy-second session
18 February to 7 March 2008

**CONSIDERATION OF REPORTS SUBMITTED BY STATES PARTIES
UNDER ARTICLE 9 OF THE CONVENTION**

ADVANCE UNEDITED VERSION

**Concluding Observations of the Committee on the
Elimination of Racial Discrimination**

BELGIUM

1. The Committee considered the fourteenth to fifteenth periodic reports of Belgium, submitted in one document (CERD/C/BEL), at its 1857th and 1858th meetings (CERD/C/SR.1857 and 1858), held on 25 and 26 February 2008. At its 1870 meeting (CERD/C/SR.1870), held on 5 March 2008, it adopted the following concluding observations.

A. Introduction

2. The Committee welcomes the report submitted by the State party, which is in conformity with the reporting guidelines, and notes with appreciation the regularity with which the State party submits its reports, in compliance with the requirements of the Convention. It appreciates the attendance of a large delegation, which included representatives of the Francophone and Flemish Communities and Regions, and the extensive and detailed responses provided to the questions asked by the Committee, including in writing.

3. The Committee welcomes the presence in the delegation of a representative of the Centre for Equal Opportunity and Action to Combat Racism and that the representative took active part in the examination providing information on the implementation of the Convention in the State party.

B. Positive aspects

4. The Committee acknowledges with appreciation the adoption of the Law of 10 May 2007, modifying the Law of 30 July 1981 on the punishment of acts of racism and xenophobia.
5. The Committee expresses its satisfaction for the work of the Centre for Equal Opportunity and Action to Combat Racism, especially in bringing cases of racial discrimination to court, as well as the assurances given by the delegation that there is no intention to narrow its mandate.
6. The Committee notes with appreciation other measures adopted to prevent and combat racial discrimination in Belgium, especially the 2004 federal action plan to combat racism, anti-Semitism and xenophobic violence and the setting up of a special unit to monitor racist messages on the internet.
7. The Committee further commends the State party for its active role with respect to the Durban Conference and its follow-up, including the invitation to visit Belgium to the Working Group of Experts on People of African Descent which took place in June 2005.
8. The Committee welcomes the fact that the State party has granted non EU-citizens the right to vote in local elections.
9. The Committee acknowledges with appreciation the “diversity” policy adopted to strengthen the inclusion of migrants in the labour market and in society as such.

C. Specific concerns and recommendations

10. The Committee welcomes the existence of the Centre for Equal Opportunity and Action to Combat Racism, and other bodies with the mandate to promote and protect human rights, but regrets that no independent national human rights institution, established in accordance with the Paris Principles (General Assembly Resolution 48/134 of 20 December 1993), exists in the State party.

The Committee recommends that the State party continue its considerations on the establishment of an independent national human rights institution, with a broad mandate to promote and protect human rights, in accordance with the Paris Principles (General Assembly Resolution 48/134 of 20 December 1993).

11. While noting that members of the “Front National” party were found guilty of incitement to racial hatred and sentenced to 250 hours of community service, with a suspension of the right to be elected for 10 years, the Committee remains concerned with the persistence of hate speech in the State party. The Committee is further concerned with the judicial procedure brought before the Constitutional Court by the “Vlaams Belang” party, and others, based on the allegation that article 21 of the Law of 10 May 2007, which declares that the dissemination of ideas based on racial superiority and hatred are criminal offences, violates freedom of expression (articles 4 (a) and 7).

In light of its General Recommendation 15 (1993), the Committee recommends that the State party continues to uphold the provisions enshrined in article 4 of the Convention, which are compatible with the right to freedom of opinion and expression, as the exercise of this right carries special duties and responsibilities.

The Committee also recommends that the State party strengthen its measures to prevent and combat xenophobia and racial prejudice amongst politicians, public officials and the general public, as well as to promote tolerance between all ethnic and national groups.

12. The Committee notes that the “Vlaams Block” party, an organization promoting racism and discriminatory propaganda, dissolved itself in 2004 following a lengthy trial for racist offences. It further notes that the “Vlaams Belang” party, its successor, has been under a judicial procedure before the State Council since May 2006 for “hostility towards rights and liberties guaranteed by the European Convention on Human Rights” (article 15ter §1 of the law of 4 July 1989) aiming at cancelling its public financial allocation. The Committee, however, is concerned that the State party has not adopted any specific provisions implementing article 4 (b) of the Convention in its domestic legislation, declaring illegal and prohibiting organizations which promote and incite racial discrimination (article 4 (b)).

The Committee, recalling its General Recommendation 15 (1993), recommends that the State party adopt legislation to ensure the full and adequate implementation of article 4 of the Convention in its domestic legal system, especially provisions declaring illegal and prohibiting organizations which promotes and incite racial discrimination, in accordance with article 4 (c).

13. The Committee is concerned about the limited number of criminal cases concerning racist offences brought to justice and the high number of complaints that are discontinued, especially with regard to racial violence, hatred and discrimination committed by members of the police force. The Committee is further concerned about the lack of detailed statistical information on investigations, prosecutions and convictions with regard to racist offences as well as on reparation provided to the victims (articles 4 (a), 5 (b), 6 and 7).

In the light of its General Recommendation 31 (2005) on the prevention of racial discrimination in the administration and functioning of the criminal justice system, the Committee recommends that the State party take all necessary measures to ensure that protection and remedies against any acts of racial discrimination are effective, and that complaints are promptly, thoroughly and impartially investigated and persons charged with offences prosecuted and tried.

The Committee also recommends that the State party provide, in its next periodic report, detailed information on the investigation, prosecution and conviction of racially motivated offences as well as on reparations provided to victims of such acts.

The Committee further recommends that the State party reinforce information campaigns and education programmes on the Convention and its provisions as well as strengthen its training activities for police and those working within the criminal justice system on the mechanisms and procedures provided for in national legislation in the field of racial discrimination.

14. The Committee is concerned about the findings in the study from the National Institute on Criminal Statistics and Criminology documenting that foreigners in the penal system receive more severe sentences than people of Belgian origin. The Committee has noted that, according to the State party, this is not an intentional policy but rather an unconscious “vicious circle” involving many actors in the administration of the penal system (article 5 (a)).

The Committee urges the State party to follow the development closely and develop a focused strategy taking into consideration the General Recommendation 31 (2005) to change the situation in order to ensure that all persons irrespective of race, colour, descent, or national or ethnic origin are treated equally in the penal system.

15. The Committee is concerned about the fact that ethnic minorities are often over-represented in social urban housing – up to 90% in some cases – which has resulted in *de facto* segregation in certain neighbourhoods of large cities. In addition, such phenomenon may lead to the use of ethnic criteria to allocate social housing, which would be a discrimination violating the provisions of the Convention (article 5 (e)).

The Committee, recalling its General Recommendation 19 (1995) on racial segregation and apartheid, recommends that the State party adopt effective measures to prevent *de facto* segregation and address its underlying factors, especially as such segregation has a negative impact on the enjoyment of economic, social and cultural rights of the individuals affected.

The Committee further recommends that the State party provide detailed information in its next periodic report on specific measures adopted to address the *de facto* segregation and the impact of these measures.

16. The Committee is concerned that the Flemish Community adopted a decree on 15 December 2006 restricting access to social housing to persons who speak or make the commitment to learn Dutch, as well as by the fact that the decree was endorsed by the State Council. The Committee is further concerned that the Municipality of Zaventem, near Brussels, adopted a regulation restricting the acquisition of public lands to Dutch speakers or to persons committing themselves to learn it (article 5 (e) (iii)).

While noting that the State party has a federal structure, the Committee recalls that Belgium is a single State under international law and has the obligation to ensure the implementation of the provisions of the Convention throughout its territory.

The Committee recommends that the State party ensure that linguistic requirements do not lead to indirect discrimination affecting both citizens and non-citizens who do not speak Dutch on grounds of their national or ethnic origin, thus impairing their enjoyment of economic, social and cultural rights, in particular their housing rights. The Committee further recommends that the State party provides detailed information in its next periodic report on this issue.

17. Noting that the European Court of Human Rights, in its judgment of 24 January 2008, found that Belgium had violated article 3 and 5 of the European Convention on Human Rights on ground of inhuman and degrading treatment of asylum seekers, the Committee shares the concern about the detention of asylum seekers, the conditions of such detention, and the lack of non custodial measures applicable to them (article 5).

The Committee, recalling its General Recommendation 30 (2004) on discrimination against non citizens, recommends that the State party adopt all necessary measures to use non custodial measures for asylum seekers and, when detention is required, that conditions meet international standards.

18. The Committee is concerned that police forces continue, in certain cases, to use excessive force during expulsion of non-citizens, as noted by the European Court of Human Rights, in its judgment of 12 October 2006, which found that Belgium had violated article 3 and 8 of the European Convention on Human Rights (articles 5 (b), 6 and 7).

The Committee recommends that the State party continue to follow closely this issue, especially by ensuring that members of the police forces are adequately trained in human rights and that all

allegations of ill-treatment and excessive use of force are investigated.

19. While acknowledging that Belgium is party to numerous international human rights instruments, the Committee notes that Belgium has signed but not ratified the Framework Convention for the Protection of National Minorities of the Council of Europe (articles 2 and 5).

The Committee wishes that the State party consider ratifying the Framework Convention for the Protection of National Minorities of the Council of Europe, thus providing its minorities with all the rights this Convention recognizes.

20. While welcoming the adoption of the law of 10 August 2005 amending various legal provisions with a view to intensifying action to combat trafficking in persons, the Committee notes the absence of detailed statistical information on investigations, prosecutions and convictions of human traffickers, bearing in mind that victims are often women and children belonging to ethnic minorities, including non-citizens, as well as the lack of measures to protect and provide adequate reparation to victims (article 5 (b) and (e)).

The Committee recommends that the State party reinforce its measures to adequately prevent, combat and punish human trafficking, especially of non-citizens, and to provide, in its next periodic report, detailed statistical information in this regard, including on protection and reparation provided to the victims.

21. While noting that in the State party the competence to regulate the wearing of the headscarf in schools belongs to each school board, the Committee is concerned with the equal enjoyment of the right to education by all girls in Belgium (article 5 (e) (v)).

The Committee recommends that the State party ensure that the procedure implementing school regulations always place emphasis on dialogue in order to prevent such regulations from denying any student the right to education and to ensure that everyone can always exercise that right.

22. While acknowledging the work of the Walloon Travellers' Mediation Centre since 2001 and the recognition of caravans as a form of housing in the Flemish housing Code since 2004, the Committee remains concerned with the practical enjoyment of social, economic and cultural rights by Roma and Travellers, especially in education and employment (articles 5 (e) and 7).

The Committee recommends, in light of its General Recommendation 27 (2000) on discrimination against Roma, that the State party strengthen its measures to improve the schooling of Roma children as well as employment opportunities for Roma and Travellers.

The Committee further recommends that the State party provide, in its next periodic report, detailed information on the enjoyment of social, economic and cultural rights of Roma and Travellers as well as on the impact of the measures taken to increase and improve sites on residential land for caravan-dwellers and improve access to health care and other basic facilities.

23. The Committee further notes that the State party has not withdrawn its declaration on article 4 of the Convention and recommends that it consider doing so.
24. The Committee recommends that the State party ratify the amendment to article 8, paragraph 6, of the Convention, adopted on 15 January 1992 at the fourteenth meeting of States parties to the Convention and endorsed by the General Assembly on 16 December 1992 (resolution A/RES/47/111). In this connection, the Committee cites General Assembly resolution of 19 December 2006 (A/RES/61/148), in which the Assembly strongly urged States parties to accelerate their domestic ratification procedures with regard to the amendment and to notify the Secretary-General expeditiously in writing of their agreement to the amendment.
25. The Committee recommends that the State party take into account the relevant parts of the Durban Declaration and Programme of Action, adopted in September 2001 by the World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance (A/CONF.189/12, chap. I), when implementing the Convention in its domestic legal order, particularly as regards articles 2 to 7 of the Convention. The Committee also urges that the State party include in its next periodic report specific information on action plans and other measures taken to implement the Durban Declaration and Programme of Action at the national level. The Committee also encourages the State party to continue to actively participate in the Preparatory Committee of the Durban Review Conference, as well as in the Durban Review Conference in 2009.
26. The Committee encourages the State party to consider ratifying the 1990 International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families (adopted by General Assembly resolution A/RES/45/158 of 18 December 1990).
27. The Committee recommends that the State party's reports be made readily available to the public at the time of their submission, and that the observations of the Committee with respect to these reports be similarly publicized in the official and national languages.
28. The Committee recommends that the State party consult widely with organizations of civil society working in the area of human rights protection, in particular in combating racial discrimination, in connection with the preparation of the next periodic report.

29. The Committee invites the State party to update its core document in accordance with the harmonized guidelines on reporting under the international human rights treaties, in particular those on the Common Core Document, as adopted by the fifth inter-Committee meeting of the human rights treaty bodies held in June 2006 (HRI/GEN/2/Rev.4).
30. The State party should, within one year, provide information on the way it has followed up on the Committee's recommendations contained in paragraphs 10, 14, 16 and 22 pursuant to paragraph 1 of rule 65 of the rules of procedure.
31. The Committee recommends that the State party submit its sixteenth to nineteenth periodic reports in a combined single report on the 6 September 2012, taking into account the guidelines for the CERD-specific document, as adopted at its 71st session, and that it addresses all points raised in the present concluding observations.
