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Belgium

The present report is a compilation of the information contained in the reports of treaty bodies, special procedures, including observations and comments by the State concerned, and other relevant official United Nations documents. It does not contain any opinions, views or suggestions on the part of the Office of the United Nations High Commissioner for Human Rights (OHCHR), other than those contained in public reports issued by OHCHR. It follows the structure of the general guidelines adopted by the Human Rights Council. Information included herein has been systematically referenced in endnotes. The report has been prepared taking into consideration the four-year periodicity of the first cycle of the review. In the absence of recent information, the latest available reports and documents have been taken into consideration, unless they are outdated. Since this report only compiles information contained in official United Nations documents, lack of information or focus on specific issues may be due to non-ratification of a treaty and/or to a low level of interaction or cooperation with international human rights mechanisms.

I. Background and framework

A. Scope of international obligations¹

<i>Universal human rights treaties²</i>	<i>Date of ratification, accession or succession</i>	<i>Declarations/reservations</i>	<i>Recognition of specific competences of treaty bodies</i>
ICERD	7 August 1975	Declaration (art. 4)	Individual complaints (art. 14): Yes
ICESCR	21 April 1983	Declaration (art. 2)	-
ICCPR	21 April 1983	Reservation (arts. 10, 14, 19, 21, 22) Interpretative declaration (arts. 20 and 23)	Inter-State complaints (art. 41): Yes
ICCPR-OP 1	17 May 1994	None	-
ICCPR-OP 2	8 December 1998	None	-
CEDAW	10 July 1985	None	-
OP-CEDAW	17 June 2004	Yes	Inquiry procedure (arts. 8 and 9): Yes
CAT	25 June 1999	None	Inter-State complaints (art. 21): Yes Individual complaints (art. 22): Yes Inquiry procedure (art. 20): Yes
CRC	16 December 1991	Declaration (arts. 2, 13, 15, 40 and 14)	-
OP-CRC-AC	6 May 2002	Binding declaration under art. 3: 18 years	-
OP-CRC-SC	17 March 2006	Declaration	-
CRPD	2 July 2009	Declaration	-
OP-CRPD	2 July 2009	None	Inquiry procedure (arts. 6 and 7): Yes

Treaties to which Belgium is not a party: OP-ICESCR³ (signature only, 2009), OP-CAT (signature only, 2005), ICRMW and CED (signature only, 2007).

<i>Other main relevant international instruments⁴ [optional note]</i>	<i>Ratification, accession or succession</i>
Convention on the Prevention and Punishment of the Crime of Genocide	Yes
Rome Statute of the International Criminal Court	Yes
Palermo Protocol ⁵	Yes
Refugees and stateless persons ⁶	Yes, except Stateless Persons Convention of 1961
Geneva Conventions of 12 August 1949 and Additional Protocols thereto ⁷	Yes, except AP III
ILO fundamental conventions ⁸	Yes
UNESCO Convention against Discrimination in Education	No

1. In 2008, the Committee against Torture (CAT) and, in 2010, the Committee on the Rights of the Child (CRC) recommended that Belgium ratify OP-CAT and ICRMW.⁹ In 2008, the Committee on the Elimination of All Forms of Discrimination against Women (CEDAW), the Committee on the Elimination of Racial Discrimination (CERD), and, in 2007, the Committee on Economic, Social and Cultural Rights (CESCR) also recommended the ratification of ICRMW.¹⁰
2. CRC, CAT, and CEDAW recommended that Belgium ratify the International Convention for the Protection of All Persons from Enforced Disappearance (CED).¹¹
3. CRC recommended that Belgium ratify OP-ICESCR.¹²
4. In 2010, The Human Rights Committee (HR Committee) recommended that Belgium consider withdrawing its reservations and interpretative declarations on the Covenant.¹³ CRC recommended that Belgium expedite the process to withdraw its declarations to articles 2 and 40 of the Convention.¹⁴ CERD recommended that Belgium consider withdrawing its declaration on article 4, and ratify the amendment to article 8, paragraph 6, of the Convention.¹⁵
5. CESCR encouraged Belgium to consider ratifying ILO Convention No. 117 (1962) concerning Basic Aims and Standards of Social Policy, and Convention No. 118 (1962) concerning Equality of Treatment of Nationals and Non-Nationals in Social Security.¹⁶
6. In 2010 the United Nations High Commissioner for Refugees (UNHCR) recommended that Belgium accede to the 1961 Convention on the Reduction of Statelessness.¹⁷

B. Constitutional and legislative framework

7. CEDAW was concerned about the absence of direct reliance on the Convention by litigants, lawyers and judges, and encouraged Belgium to recognize the Convention as the most pertinent international instrument in the sphere of the elimination of discrimination against women.¹⁸
8. CRC was concerned that legislative development in the German-speaking Community has not kept pace with development in the other two Communities.¹⁹
9. CRC was concerned there was a confusion in Belgium's legislation between trafficking and sale, as a result of which the sale of children is not criminalized as a specific crime.²⁰
10. CRC expressed concern that the definition of child pornography was restricted to visual representations of the child, and recommended that Belgium revise its penal code to ensure that its legislation on child pornography covers representation of a child by whatever means for primarily sexual purposes.²¹
11. CRC was concerned at the fact that the law governing conscripts, which has not been repealed, allows for the recruitment of militiamen from January of the year in which they attain the age of 17, especially during wartime.²²
12. CRC recommended that Belgium review its domestic law on small arms trade with a view to abolishing trade in war materiel with countries where persons who have not attained the age of 18 directly take part in hostilities.²³

C. Institutional and human rights infrastructure

13. In 1999, the Centre for Equal Opportunities and Opposition to Racism (CEOOR) was accredited with B status by the International Coordinating Committee of National Human Rights Institutions for the Promotion and Protection of Human Rights (ICC). It was further reviewed in March 2010.²⁴ The Sub-Committee on Accreditation noted that although article 3 of the founding law of the Centre stated that the institution shall perform in complete independence, the legislation of CEOOR also contained several provisions that may compromise its independence, notably relating to the composition of CEOOR.²⁵

14. HR Committee, CAT, CEDAW, CERD and CESCR recommended that Belgium ensure effective coordination for the establishment of a national human rights institution in accordance with the Paris Principles.²⁶ In its follow-up response to CERD in 2009, Belgium indicated that political debate on this issue was still under way.²⁷

15. CRC, CEDAW and CESCR recommended that Belgium ensure effective coordination at the federal, regional and community levels for the implementation of the respective Conventions.²⁸

D. Policy measures

16. CRC recommended that Belgium take concrete action to implement the national plan of action for children,²⁹ in consultation and cooperation with relevant partners.

17. In 2010, the ILO Committee of Experts on the Application of Conventions and Recommendations noted that a national plan of action to combat human trafficking had been approved in July 2008.³⁰ CRC expressed concern that an overall strategy for the elimination of the sale of children, child prostitution and child pornography was lacking in Belgium.³¹

18. CEDAW urged Belgium to fully implement the wide range of laws, policies and programmes aimed at strengthening gender equality and women's rights.³²

19. CRC encouraged Belgium to continue its efforts to strengthen international cooperation for the prevention and punishment of acts involving the sale of children, child prostitution, child pornography and child sex tourism.³³

II. Promotion and protection of human rights on the ground

A. Cooperation with human rights mechanisms

1. Cooperation with treaty bodies

<i>Treaty body³⁴</i>	<i>Latest report submitted and considered</i>	<i>Latest concluding observations</i>	<i>Follow-up response</i>	<i>Reporting status</i>
CERD	2006	March 2008	Submitted in March 2009	Combined sixteenth to nineteenth reports due in 2012
CESCR	2006	November 2007	-	Fourth report due in June 2010, submitted in July 2010
HR Committee	2009	October 2010	Due in 2011	Sixth report due in 2015
CEDAW	2007	October 2008	Due in October 2010	Seventh report due in 2012

<i>Treaty body³⁴</i>	<i>Latest report submitted and considered</i>	<i>Latest concluding observations</i>	<i>Follow-up response</i>	<i>Reporting status</i>
CAT	2006	November 2008	Submitted in March 2010	Third report due in 2012
CRC	2008	June 2010	-	Combined fifth and sixth reports due in 2017
OP-CRC-AC	2004	June 2006	-	Information submitted in combined third and fourth reports submitted in July 2008
OP-CRC-SC	2009	June 2010	-	Information to be included in the combined fifth and sixth reports due in 2017
CRPD			-	Initial report due in 2011

20. CRC, CAT, CESCR and CERD invited Belgium to submit an updated core document.³⁵

2. Cooperation with special procedures

<i>Standing invitation issued</i>	<i>Yes</i>
<i>Latest visits or mission reports</i>	Working Group of Experts on People of African Descent (13–17 June 2005)
<i>Visits agreed upon in principle</i>	-
<i>Visits requested and not yet agreed upon</i>	-
<i>Facilitation/cooperation during missions</i>	The Working Group of Experts on People of African Descent expressed its gratitude to the Government of Belgium for its invitation and assistance before and during its visit. ³⁶
<i>Follow-up to visits</i>	-
<i>Responses to letters of allegations and urgent appeals</i>	1
<i>Responses to questionnaires on thematic issues</i>	Belgium responded to 5 of the 26 questionnaires sent by special procedures mandate holders ³⁷ and additionally, the EU responded to the questionnaire referred to in A/HRC/15/32.

3. Cooperation with the Office of the High Commissioner for Human Rights

21. In 2009, OHCHR opened a regional Office for Europe in Brussels, which seeks to address human rights challenges in Europe, including Belgium, by integrating UN human rights standards and principles into European Union (EU)-wide internal and external policies, legislation and implementation measures.³⁸

22. Belgium has continuously contributed financially to OHCHR, including to humanitarian funds between 2006 and 2010.³⁹

B. Implementation of international human rights obligations

1. Equality and non-discrimination

23. HR Committee was concerned that discrimination against women remained strong and that unequal treatment persisted.⁴⁰ CEDAW called upon Belgium to strengthen its

efforts to eliminate stereotypical images and attitudes that perpetuate discrimination against women.⁴¹

24. In 2009, the ILO Committee of Experts stated that the segregation of women and men remained widespread, and women were still underrepresented in posts of responsibility. It also noted that women accounted for only 14 per cent of senior management positions in the federal public administration.⁴²

25. CEDAW was concerned about the continuing discrimination against immigrant, refugee and minority women.⁴³

26. CEDAW expressed its concern that the ban of headscarves in schools may increase the discrimination faced by girls from ethnic and religious minorities, and may impede equality of access to education.⁴⁴ CERD expressed similar concerns.⁴⁵

27. While noting that members of the *Front National* party were found guilty of incitement to racial hatred, CERD observed the persistence of hate speech in Belgium. Furthermore, CERD, was concerned that Belgium had not adopted any specific provisions declaring illegal and prohibiting organizations which promote and incite racial discrimination. CERD recommended that Belgium strengthen its measures to prevent and combat xenophobia and racial prejudice among politicians, public officials and the general public.⁴⁶

28. HR Committee expressed concern about the resurgence of anti-Semitic and racist acts, and the increase in Islamophobic remarks and acts. HR Committee was particularly concerned by the spread of this phenomenon in the media and the Internet, in particular, and by the increasingly widespread use of Islamophobic rhetoric by, among others, political parties that receive public funding. It further regretted that a bill to prohibit neo-Nazi demonstrations was not adopted and had expired. Belgium should consider the possibility of resubmitting said bill, and consider discontinuing public funding for political parties that propagate hate, discrimination or violence.⁴⁷

29. CESCR noted that despite the measures adopted by Belgium to enhance its legal and institutional mechanisms aimed at combating racial discrimination, de facto discrimination against foreigners and persons belonging to ethnic and national minorities, in particular migrant workers and members of their families, members of the Muslim community and Roma, were still widespread among some sectors of the population.⁴⁸

30. In 2006, the Working Group of Experts on People of African Descent stressed the importance of the collection of statistical data disaggregated by race and ethnicity to understanding patterns of inequality. It was important for establishing precisely what role colour and ethnicity played in economic and social exclusion, and would significantly help in development planning and resource allocation.⁴⁹

31. HR Committee expressed concern that access to certain rights set forth in the Covenant may be hindered by decisions taken by the community authorities in Flanders concerning issues such as the purchase of communal land, access to services and housing, and the requirement for persons to speak or learn Dutch, which lead to discrimination.⁵⁰ For its part, the ILO Committee of Experts noted in 2009 that under the amended Flemish Code on Housing, in order to have access to local authority housing, would-be tenants were obliged to demonstrate their willingness to learn Dutch, and that the Flemish Government established the rules for determining “willingness” to learn Dutch. The Committee of Experts wished to be sure that the application of the aforementioned Decree, in practice, did not place migrant workers at a disadvantage in relation to Belgian nationals, on the basis of nationality or ethnic or racial origin, and that it was in line with article 6 (1) (a) (iii) of the ILO Migration for Employment Convention (No. 97) to which Belgium is a party.⁵¹ CERD raised similar concerns.⁵² In its follow-up response to CERD, Belgium indicated that no

potential tenant has ever been turned down on the basis of the language proficiency requirement.⁵³

32. CRC reiterated its serious concern as to the multiple forms of discrimination to which children living in poverty were subjected in Belgium, in particular regarding their access to education, health care and leisure. CRC was also concerned at continuous discrimination suffered by children with disabilities and children of foreign origin.⁵⁴

33. HR Committee was concerned by the fact that discrimination against persons with disabilities persisted in Belgium and hindered the full integration of those persons into political, social and economic affairs.⁵⁵

2. Right to life, liberty and security of the person

34. CAT recommended that all elements of the definition of torture contained in the Convention be included in article 417 bis of the Belgian Criminal Code. CAT welcomed the entry into force, in May 2006, of the Police Service Code of Ethics, but regretted that it did not explicitly prohibit torture.⁵⁶

35. CAT acknowledged that, pursuant to the Act of 25 April 2007, “any deprivation of liberty shall be entered in a register of detainees” but wondered whether this procedure was being implemented in practice. CAT was concerned that there was no provision for noting an arrested individual’s physical condition in the register.⁵⁷ Belgium informed on measures taken to comply with this recommendation.⁵⁸

36. HR Committee expressed concern about the reports of excessive use of force by members of the police, which is not compatible with the United Nations Principles on the Use of Force and Firearms by Law Enforcement Officials, particularly when persons are brought in for questioning, and by the fact that complaints against police officers did not always lead to the imposition of commensurate penalties. HR Committee was particularly concerned by reports of excessive use of force and preventive arrests during the demonstrations that took place from 29 September to 1 October 2010 in Belgium.⁵⁹

37. HR Committee was concerned by the fact that the use of tasers could lead to severe pain and life-endangering injury. Belgium should consider discontinuing authorization to use tasers.⁶⁰

38. HR Committee noted reports of the use of excessive force against foreign nationals who were subject to deportation in closed centres or during their expulsion, and the difficulty that such persons had in lodging a complaint.⁶¹ CERD raised similar concerns.⁶²

39. CAT highlighted the situation of certain deported individuals following their return to their country of origin, and recommended that Belgium improve the monitoring of deported persons with a view to ensuring that no one may be sent to a State where there is a serious risk that he or she might be subject to the death penalty, torture or other inhuman or degrading treatment or punishment.⁶³

40. CRC urged Belgium to put an end to the detention of children in closed centres, and create alternatives to detention for asylum-seeking families.⁶⁴

41. UNHCR expressed concern regarding the systematic detention of asylum-seekers at the border, and the common use of that procedure in application of the Dublin II Regulation. Asylum-seekers are detained throughout the duration of the Dublin procedure. According to international standards, detention should be used only as a last resort and should be as brief as possible.⁶⁵

42. HR Committee remained concerned about the practice of holding persons suffering from mental illness in prisons and prison psychiatric wards.⁶⁶ CAT raised similar concerns.⁶⁷

43. HR Committee expressed concern about prison overcrowding, by the dilapidated condition of prison buildings and by the fact that persons subject to different custodial regimes were not always separated from one another.⁶⁸ CAT expressed similar concerns and recommended that Belgium establish a national body responsible for conducting regular visits to places of detention.⁶⁹

44. HR Committee reported that domestic violence persisted in Belgium and that Belgium had still not adopted comprehensive legislation on that subject.⁷⁰ CEDAW and CESCR expressed similar concerns.⁷¹

45. CRC was concerned that hundreds of girls living in Belgium had been subjected to female genital mutilation, and that the law prohibiting such practices remained unknown, even by health workers.⁷²

46. CRC noted the extent of child abuse, the second cause of infant mortality in Flanders, and that mortality resulting from abuse of children in Belgium was high. CRC was also concerned that one third of all cases were cases of sexual abuse and that sexual abuse was still qualified by the Criminal Code as a crime against morality rather than as a violent crime.⁷³

47. CRC was concerned about the lack of information on the measures taken against Belgian nationals involved in child sex tourism.⁷⁴

48. HR Committee observed the insufficient means made available to assist victims of human trafficking and by the fact that residence permits were not issued to them unless they cooperated with court authorities.⁷⁵ CAT, CRC, CEDAW, and CERD expressed similar views.⁷⁶

49. CRC reported that Belgium had not taken the necessary measures to ensure that corporal punishment in the family and non-institutional childcare settings was explicitly prohibited by law.⁷⁷ CAT and CESCR expressed similar concerns.⁷⁸

50. In 2009, the ILO Committee of Experts welcomed the legislative provisions adopted by Belgium to prevent child begging, and to combat the handing over of minors to begging. However, the Committee of Experts observed that begging by children remained a serious concern in practice and encouraged Belgium to establish a time-bound programme to eliminate the exploitation of children.⁷⁹

3. Administration of justice, including impunity and the rule of law

51. Although HR Committee took note of the information provided by the Government, it remained concerned by the doubts that persist as to the independence, objectivity and transparency with which complaints against police officers are investigated.⁸⁰ CAT raised similar concerns.⁸¹

52. HR Committee noted that access to legal counsel was not guaranteed in all cases within the first few hours after a person is taken into custody. HR Committee also reported that the right of access to a doctor was not always specifically provided.⁸² CAT expressed similar concerns.⁸³

53. CERD highlighted the findings in the study from the National Institute on Criminal Statistics and Criminology concluding that foreigners in the penal system received more severe sentences than people of Belgian origin.⁸⁴ In its follow-up response, Belgium indicated that it considered awareness-raising training and initiatives as the best way to tackle discrimination.⁸⁵

54. CERD noted the limited number of criminal cases concerning racist offences that have been brought to justice, and the high number of complaints that have been

discontinued, especially with regard to racial violence, hatred and discrimination committed by members of the police force.⁸⁶

55. CRC expressed serious concern about the existing legal grounds for terminating proceedings in cases of procuring children and child pornography, such as “limited social repercussions”, “occasional nature of the acts” or “limited capacity to inquire into the case”. CRC considered that such grounds constituted a violation of the right of the child victim to obtain remedies, and lead to the impunity for the perpetrators.⁸⁷

56. CRC reported on the very low percentage of custodial sentences imposed in cases of convictions for child sexual offences. It also noted that none of the persons convicted between 2000 and 2007 for keeping a brothel for prostitution involving children had been sentenced to prison. CRC urged Belgium to consider amending the provision of its penal law in order to ensure that offences covered by the Optional Protocol are considered crimes and that they are not sanctioned with light sentences without deprivation of liberty.⁸⁸

57. CRC urged Belgium to amend its law in order to ensure that the extraterritorial competence of Belgium courts and tribunals also applied to sexual exploitation of children between 16 and 18 years of age.⁸⁹

58. HR Committee reported that, although the Youth Protection Act of 8 April 1965 was amended in 2006, it still provided for referral orders whereby minors between the ages of 16 and 18 may be tried as adults.⁹⁰ CAT shared similar concerns.⁹¹

4. Right to marriage and family life

59. CRC was concerned that childcare was still primarily focused on placing children in residential institutions and that the French Community had a very high rate of institutionalized children under 3 years of age.⁹²

60. CEDAW was concerned at the scope of the phenomenon of forced marriage in Belgium.⁹³

61. CRC observed the high rate of intercountry adoptions compared to domestic adoptions, and urged Belgium to encourage more domestic adoption of children.⁹⁴

62. CEDAW reported that Belgium’s law on family names discriminated directly against women in that it did not allow a married woman or a woman living in de facto union with a man to give her family name to her children.⁹⁵

63. UNHCR reported that many beneficiaries of international protection found themselves facing a protracted family reunification procedure. UNHCR recommended that Belgium simplify the procedure, particularly with regard to documenting family ties and speeding up the processing of applications for humanitarian visas, and that close relatives included in the family reunification process be granted, in principle, the same legal status as family members.⁹⁶

5. Freedom of expression and right to participate in public and political life

64. While recognizing impressive progress in the participation of women in political and public life, CEDAW was concerned that in some cases, the quotas provided for under the law have not led to the expected results.⁹⁷

6. Right to work and to just and favourable conditions of work

65. CEDAW highlighted the persistence of a wage gap between men and women workers, the continuing gender-based occupational segregation, and the high number of women in both voluntary and involuntary part-time and temporary jobs. CEDAW was further concerned about the discrimination women face with regard to issues of social

security, in particular regarding unemployment benefits.⁹⁸ CESCR expressed similar views.⁹⁹

66. The Working Group of Experts on People of African Descent noted in 2006, that practices of discrimination relating to access to the labour market were still widespread and targeted not only migrants, but also persons of Belgian nationality, mainly those of foreign origins. Employment remained the area where the CEOOR received the majority of complaints of discrimination.¹⁰⁰

67. In 2009, the ILO Committee of Experts requested Belgium to provide information on measures to ensure that ethnic minorities had equal access to vocational guidance, training programmes and placement services in the private and public sectors.¹⁰¹

68. CESCR remained concerned that the unemployment rates for young persons, persons over 55 years of age, and foreign residents were considerably high.¹⁰²

69. CESCR noted the significant obstructions to the exercise of the right to strike, arising from the practice of employers to initiate legal proceedings in order to obtain a ban on certain strike-related activities, as well as from the possibility that workers may be dismissed as a result of their participation in a strike.¹⁰³

70. In 2009, the ILO Committee of Experts hoped that, in accordance with article 3 (3) of the ILO Minimum Age Convention (No. 138), the new Code on well-being at work would ensure that young persons engaged in hazardous jobs work only from the age of 16 years.¹⁰⁴

7. Right to social security and to an adequate standard of living

71. CRC expressed serious concern that over 16.9 per cent of children live below the poverty line, and that this proportion is increasing, particularly affecting families of foreign origin and single-parent families.¹⁰⁵

72. CRC noted the state of health of children from the most disadvantaged families and particularly that the mortality rate in the first year of life of children from families without declared income was 3.3 higher than in families with two incomes.¹⁰⁶

73. CRC reported that children receiving inpatient care in mental-health services had limited possibilities to express their opinion and were often cut off from the outside world and had restricted opportunities to meet their families and peers regularly.¹⁰⁷

74. CESCR observed that access to health care for persons belonging to vulnerable and disadvantaged groups, such as undocumented migrant workers and their families, was limited to urgent medical care.¹⁰⁸

75. CESCR remained concerned about the continuing shortage of social housing units for low-income households and other disadvantaged and marginalized individuals and groups.¹⁰⁹

8. Right to education

76. CRC highlighted the significant inequality in the enjoyment of the right to education among children. CRC noted with particular concern that school fees imposed despite the constitutional guarantee of free education greatly contributed to discrimination in the access to education, so that children from poor families and foreign children were likely to be relegated to special education programmes.¹¹⁰

77. CESCR reported on the persistent divergences in terms of performance existing in the educational system of Belgium and the lack of adequate mechanisms aimed at ensuring uniformity in the application of educational standards.¹¹¹

9. Minorities and indigenous peoples

78. CESCR was concerned about the lack of official recognition of minorities within the territory of Belgium. It recommended that Belgium officially recognize the need to protect the cultural diversity of all minority groups residing in its territory, and consider ratifying the Council of Europe Framework Convention for the Protection of National Minorities.¹¹²

79. CERD remained concerned as to the practical enjoyment of social, economic and cultural rights by Roma and Travellers, especially in education and employment.¹¹³ In its follow-up response, Belgium informed about policy and budgetary measures adopted in this regard.¹¹⁴

80. CERD observed the fact that ethnic minorities were often over-represented in social urban housing — up to 90 per cent in some cases — which resulted in de facto segregation in certain neighbourhoods of large cities.¹¹⁵

10. Migrants, refugees and asylum-seekers

81. UNHCR pointed to the need to improve certain aspects of the asylum procedure in Belgium. UNHCR recommended, among other things, that Belgium improve legal assistance to asylum-seekers, including by allowing counsel to attend the interview at the Aliens Office (especially for procedures under the Dublin II Regulation and in cases relating to the admissibility of an application involving multiple requests or to unaccompanied or separated children), inform asylum-seekers more effectively about the asylum procedure before the first interview, and enhance the training of lawyers.¹¹⁶

82. HR Committee expressed concern about allegations that deportation operations were not properly monitored by the relevant oversight bodies and that those bodies were not independent.¹¹⁷ CAT expressed similar views.¹¹⁸ In its follow-up response to CAT, Belgium informed about the procedures and measures applicable to the control of deportations.¹¹⁹

83. UNHCR expressed concern regarding the large number of people housed in emergency facilities that were not compatible with their needs or rights. Asylum-seekers housed in these facilities remained in the street and did not receive appropriate social, medical or legal support or information, including about their rights and obligations, that was needed for their asylum request to proceed smoothly. UNHCR recommended that Belgium continue its efforts to eliminate the current shortcomings in the reception of asylum-seekers.¹²⁰

84. UNHCR pointed out that, given the duration of contemporary conflicts, many beneficiaries of subsidiary protection had no prospect of returning to their country of origin in the foreseeable future and under conditions that were acceptable in terms of safety and dignity. At the same time, and rather paradoxically, their integration in Belgium was not facilitated as they were accorded more limited rights. UNHCR recommended that the status of refugees and that of beneficiaries of subsidiary protection be more closely aligned.¹²¹

85. CEDAW noted the situation of women asylum-seekers, especially the fact that often they did not receive assistance from female public officials, and that frequently the interpreters provided for the interviews were men. Those facts created serious impediments to women asylum-seekers when talking about sexual abuse.¹²²

86. CRC was, however, concerned that unaccompanied and separated children older than 13 years of age, who did not file an asylum claim, were denied access to reception centres and found themselves on the streets. Also, owing to lack of available places in reception centres, unaccompanied children may be housed in asylum centres for adults and, in some cases, excluded from any type of assistance. Recognized stateless children were not entitled to the right to residence in Belgium.¹²³

87. CRC recommended that Belgium pay special attention to asylum-seeking, refugee and migrant children in Belgium who may have been involved in or affected by armed conflict.¹²⁴

III. Achievements, best practices, challenges and constraints

88. The Working Group of Experts on People of African Descent noted in 2006 that the Belgian authorities had been promoting dialogue between the different social, political and economic actors involved in stimulating the adoption of new initiatives for combating discrimination in employment. They welcomed the actions undertaken in these areas, which they viewed as examples of good practices to counter discrimination in employment.¹²⁵

IV. Key national priorities, initiatives and commitments

A. Pledges by the State

89. In a note verbale of 25 March 2009 to the President of the General Assembly in the framework of its candidature to the HRC for the period 2009–2012, Belgium presented its human rights vision and human rights commitments and pledges at the national and international levels.¹²⁶

B. Specific recommendations for follow-up

90. In 2010, CAT requested that Belgium provide, within one year, information on its response to recommendations in paragraphs 6 (inadequate external monitoring of deportations), 7 (unaccompanied minors), 11 (Committee P), 16 (right to legal counsel), 20 (register of detainees) and 27 (ratification of OP-CAT).¹²⁷ Belgium submitted a follow-up response in 2010.¹²⁸

91. In 2008, CEDAW requested Belgium to provide, within two years, detailed written information on the implementation of the recommendations in paragraphs 28 (legislation on family names) and 30 (qualification of sexual abuse as a violent crime).¹²⁹

92. In 2008, CERD requested Belgium to provide, within one year, information on its follow-up to the Committee's recommendations in paragraphs 10 (National Human Rights Institution), 14 (foreigners in the penal system receiving more severe sentences), 16 (access to social housing for persons who speak or make commitment to learn Dutch), and 22 (situation of Roma and Travellers).¹³⁰ Belgium submitted a follow-up response in 2009.¹³¹

93. Regarding follow-up to its views on communication 1472/2006 referring to the ICCPR, the HR Committee requested that Belgium consider the possibility of granting compensation to the authors of the communication.¹³²

V. Capacity-building and technical assistance

N/A

Notes

¹ Unless indicated otherwise, the status of ratifications of instruments listed in the table may be found

in *Multilateral Treaties Deposited with the Secretary-General: Status as at 1 April 2009* (ST/LEG/SER.E/26), supplemented by the official website of the United Nations Treaty Collection database, Office of Legal Affairs of the United Nations Secretariat, <http://treaties.un.org/>.

² The following abbreviations have been used for this document:

ICERD	International Convention on the Elimination of All Forms of Racial Discrimination
ICESCR	International Covenant on Economic, Social and Cultural Rights
OP-ICESCR	Optional Protocol to ICESCR
ICCPR	International Covenant on Civil and Political Rights
ICCPR-OP 1	Optional Protocol to ICCPR
ICCPR-OP 2	Second Optional Protocol to ICCPR, aiming at the abolition of the death penalty
CEDAW	Convention on the Elimination of All Forms of Discrimination against Women
OP-CEDAW	Optional Protocol to CEDAW
CAT	Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment
OP-CAT	Optional Protocol to CAT
CRC	Convention on the Rights of the Child
OP-CRC-AC	Optional Protocol to CRC on the involvement of children in armed conflict
OP-CRC-SC	Optional Protocol to CRC on the sale of children, child prostitution and child pornography
ICRMW	International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families
CRPD	Convention on the Rights of Persons with Disabilities
OP-CRPD	Optional Protocol to CRPD
CED	International Convention for the Protection of All Persons from Enforced Disappearance.

³ Adopted by the General Assembly in its resolution 63/117 of 10 December 2008. Article 17, paragraph 1, of OP-ICESCR states that “The present Protocol is open for signature by any State that has signed, ratified or acceded to the Covenant”.

⁴ Information relating to other relevant international human rights instruments may be found in the pledges and commitments undertaken by Belgium before the Human Rights Council, as contained in the note verbale dated 25 March 2009 sent by the Permanent Mission of Belgium to the United Nations and addressed to the President of the General Assembly (A/63/801).

⁵ Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime.

⁶ 1951 Convention relating to the Status of Refugees and its 1967 Protocol, 1954 Convention relating to the status of Stateless Persons and 1961 Convention on the Reduction of Statelessness.

⁷ Geneva Convention for the Amelioration of the Condition of the Wounded and Sick in Armed Forces in the Field (First Convention); Geneva Convention for the Amelioration of the Condition of Wounded, Sick and Shipwrecked Members of Armed Forces at Sea (Second Convention); Geneva Convention relative to the Treatment of Prisoners of War (Third Convention); Geneva Convention relative to the Protection of Civilian Persons in Time of War (Fourth Convention); Protocol Additional to the Geneva Conventions of 12 August 1949, and relating to the Protection of Victims of International Armed Conflicts (Protocol I); Protocol Additional to the Geneva Conventions of 12 August 1949, and relating to the Protection of Victims of Non-International Armed Conflicts (Protocol II); Protocol Additional to the Geneva Conventions of 12 August 1949, and relating to the Adoption of an Additional Distinctive Emblem (Protocol III). For the official status of ratifications, see Federal Department of Foreign Affairs of Switzerland, at www.eda.admin.ch/eda/fr/home/topics/intla/intrea/chdep/warvic.html.

⁸ International Labour Organization Convention No. 29 concerning Forced or Compulsory Labour; Convention No. 105 concerning the Abolition of Forced Labour, Convention No. 87 concerning Freedom of Association and Protection of the Right to Organise; Convention No. 98 concerning the Application of the Principles of the Right to Organise and to Bargain Collectively; Convention No. 100 concerning Equal Remuneration for Men and Women Workers for Work of Equal Value; Convention No. 111 concerning Discrimination in Respect of Employment and Occupation; Convention No. 138 concerning Minimum Age for Admission to Employment; Convention No. 182

concerning the Prohibition and Immediate Action for the Elimination of the Worst Forms of Child Labour.

- ⁹ CAT/C/BEL/CO/2, paras. 3 and 27; CRC/C/BEL/CO/3-4, para. 84.
- ¹⁰ CEDAW/C/BEL/CO/6, para. 51; CERD/C/BEL/CO/15, para. 26; E/C.12/BEL/CO/3, para. 40.
- ¹¹ CRC/C/BEL/CO/3-4, para. 84; CAT/C/BEL/CO/2, paras. 3 and 28; CEDAW/C/BEL/CO/6, para. 51.
- ¹² CRC/C/BEL/CO/3-4, para. 84.
- ¹³ CCPR/C/BEL/CO/5, para. 7.
- ¹⁴ CRC/C/BEL/CO/3-4, para. 10.
- ¹⁵ CERD/C/BEL/CO/15, paras. 23 and 24.
- ¹⁶ E/C.12/BEL/CO/3, para. 41.
- ¹⁷ UNHCR submission to the UPR on Belgium, p. 8.
- ¹⁸ CEDAW/C/BEL/CO/6, paras. 17 and 18.
- ¹⁹ CRC/C/BEL/CO/3-4, para. 11.
- ²⁰ CRC/C/OPSC/BEL/CO/1, para. 9.
- ²¹ CRC/C/OPSC/BEL/CO/1, paras. 27 and 28.
- ²² CRC/C/OPAC/BEL/CO/1, para. 10.
- ²³ CRC/C/OPAC/BEL/CO/1, para. 21.
- ²⁴ For the list of national human rights institutions with accreditation status granted by the International Coordination Committee of National Institutions for the Promotion and Protection of Human Rights (ICC), see A/65/340, annex I.
- ²⁵ See information available on OHCHR website: <http://www.ohchr.org/EN/Countries/NHRI/Pages/NHRIMain.aspx>.
- ²⁶ CCPR/C/BEL/CO/5, para. 8; CAT/C/BEL/CO/2, para. 12; CEDAW/C/BEL/CO/6, para. 34; CERD/C/BEL/CO/15, para. 10; E/C.12/BEL/CO/3, para. 26.
- ²⁷ CERD/C/BEL/CO/15/Add.1, para. 2.
- ²⁸ CRC/C/BEL/CO/3-4, para. 14; CEDAW/C/BEL/CO/6, para. 16; E/C.12/BEL/CO/3, para. 24.
- ²⁹ CRC/C/OPAC/BEL/CO/1, para. 9.
- ³⁰ ILO Committee of Experts on the Application of Conventions and Recommendations, Individual Direct Request concerning Forced Labour Convention, 1930 (No. 29), 2010, Geneva, doc. No. (ILOLEX) 092010BEL029, 3rd para.
- ³¹ CRC/C/OPSC/BEL/CO/1, para. 13.
- ³² CEDAW/C/BEL/CO/6, paras. 7, 13 and 14.
- ³³ CRC/C/OPSC/BEL/CO/1, para. 38.
- ³⁴ The following abbreviations have been used for this document:
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| CERD | Committee on the Elimination of Racial Discrimination |
| CESCR | Committee on Economic, Social and Cultural Rights |
| HR Committee | Human Rights Committee |
| CEDAW | Committee on the Elimination of Discrimination against Women |
| CAT | Committee against Torture |
| CRC | Committee on the Rights of the Child |
| CMW | Committee on the Protection of the Rights of All Migrant Workers and Their Families |
| CRPD | Committee on the Rights of Persons with Disabilities |
- ³⁵ CERD/C/BEL/CO/15, para. 29.
- ³⁶ CRC/C/BEL/CO/3-4, para. 88; CAT/C/BEL/CO/2, para. 30; E/C.12/BEL/CO/3, para. 42; E/CN.4/2006/19/Add.1, para. 4.
- ³⁷ The questionnaires referred to are those reflected in an official report by a special procedure mandate holder issued between 1 January 2006 and 31 October 2010. Responses counted for the purposes of this section are those received within the relevant deadlines, and referred to in the following documents: (a) E/CN.4/2006/62, para. 24, and E/CN.4/2006/67, para. 22; (b) A/HRC/4/23, para. 14; (c) A/HRC/4/24, para. 9; (d) A/HRC/4/29, para. 47; (e) A/HRC/4/31, para. 24; (f) A/HRC/4/35/Add.3, para. 7; (g) A/HRC/6/15, para. 7; (h) A/HRC/7/6, annex; (i) A/HRC/7/8, para. 35; (j) A/HRC/8/10, para. 120, footnote 48; (k) A/62/301, paras. 27, 32, 38, 44 and 51; (l) A/HRC/10/16 and Corr.1, footnote 29; (m) A/HRC/11/6, annex; (n) A/HRC/11/8, para. 56; (o) A/HRC/11/9, para. 8, footnote 1; (p) A/HRC/12/21, para. 2, footnote 1; (q) A/HRC/12/23, para. 12; (r) A/HRC/12/31, para. 1, footnote 2; (s) A/HRC/13/22/Add.4; (t) A/HRC/13/30, para. 49; (u) A/HRC/13/42, annex I; (v) A/HRC/14/25, para. 6, footnote 1; (w) A/HRC/14/31, para. 5, footnote 2

- (x) A/HRC/14/ 46/Add.1; (y) A/HRC/15/31, para. 6 – for list of responding States, see http://www2.ohchr.org/english/issues/water/iexpert/written_contributions.htm; (z) A/HRC/15/32, para. 5.
- ³⁸ OHCHR 2009 Report, Activities and Results, p. 148.
- ³⁹ See OHCHR 2006 Annual Report, pp. 158–160 and 163; OHCHR 2007 Report on Activities and Results, pp. 147, 151, 153 and 159; OHCHR 2008 Report on Activities and Results, pp. 174, 179, 181 and 188; OHCHR 2009 Report on Activities and Results, pp. 190, 195, 197 and 202; OHCHR 2010 Report on Activities and Results (forthcoming).
- ⁴⁰ CCPR/C/BEL/CO/5, para. 12.
- ⁴¹ CEDAW/C/BEL/CO/6, para. 24.
- ⁴² ILO Committee of Experts on the Application of Conventions and Recommendations, Individual Direct Request concerning Discrimination (Employment and Occupation) Convention, 1958 (No. 111), 2009, Geneva, doc. No. (ILOLEX) 092010BEL111, paras. 2–3.
- ⁴³ CEDAW/C/BEL/CO/6, para. 39.
- ⁴⁴ CEDAW/C/BEL/CO/6, para. 35.
- ⁴⁵ CERD/C/BEL/CO/15, para. 21.
- ⁴⁶ CERD/C/BEL/CO/15, paras. 11 and 12.
- ⁴⁷ CCPR/C/BEL/CO/5, para. 22.
- ⁴⁸ E/C.12/BEL/CO/3, para. 14.
- ⁴⁹ E/CN.4/2006/19/Add.1, para. 67.
- ⁵⁰ CCPR/C/BEL/CO/5, para. 10.
- ⁵¹ ILO Committee of Experts on the Application of Conventions and Recommendations, Individual Direct Request concerning Migration for Employment Convention, 1949 (No. 97), 2009, Geneva, doc. No. (ILOLEX) 092009BEL097, 4th para.
- ⁵² CERD/C/BEL/CO/15, para. 16.
- ⁵³ CERD/C/BEL/CO/15/Add.1, paras.10 and 11.
- ⁵⁴ CRC/C/BEL/CO/3-4, para. 31.
- ⁵⁵ CCPR/C/BEL/CO/5, para.11.
- ⁵⁶ CAT/C/BEL/CO/2, paras. 14 and 15.
- ⁵⁷ CAT/C/BEL/CO/2, para. 20.
- ⁵⁸ CAT/C/BEL/CO/2/Add.1, paras. 80–86.
- ⁵⁹ CCPR/C/BEL/CO/5, para. 14.
- ⁶⁰ CCPR/C/BEL/CO/5, para. 13.
- ⁶¹ CCPR/C/BEL/CO/5, para. 20.
- ⁶² CERD/C/BEL/CO/15, para. 18.
- ⁶³ CAT/C/BEL/CO/2, para. 10.
- ⁶⁴ CRC/C/BEL/CO/3-4, para. 77.
- ⁶⁵ UNHCR submission to the UPR on Belgium, pp. 4–5.
- ⁶⁶ CCPR/C/BEL/CO/5, para. 19.
- ⁶⁷ CAT/C/BEL/CO/2, para. 23.
- ⁶⁸ CCPR/C/BEL/CO/5, para. 18.
- ⁶⁹ CAT/C/BEL/CO/2, para. 18.
- ⁷⁰ CCPR/C/BEL/CO/5, para. 9.
- ⁷¹ CEDAW/C/BEL/CO/6, para. 31; E/C.12/BEL/CO/3, para. 32.
- ⁷² CRC/C/BEL/CO/3-4, para. 62.
- ⁷³ CRC/C/BEL/CO/3-4, para. 48.
- ⁷⁴ CRC/C/OPSC/BEL/CO/1, para. 25.
- ⁷⁵ CCPR/C/BEL/CO/5, para. 16.
- ⁷⁶ CAT/C/BEL/CO/2, para. 25; CRC/C/BEL/CO/3-4, paras. 80–81; CRC/C/OPSC/BEL/CO/1, paras. 35–36; CEDAW/C/BEL/CO/6, para. 42; CERD/C/BEL/CO/15, para. 20.
- ⁷⁷ CRC/C/BEL/CO/3-4, para. 39.
- ⁷⁸ CAT/C/BEL/CO/2, para. 24; E/C.12/BEL/CO/3, para. 33.
- ⁷⁹ ILO Committee of Experts on the Application of Conventions and Recommendations, Individual Direct Request concerning Worst Forms of Child Labour Convention, 1999 (No. 182), 2009, Geneva, doc. No. (ILOLEX) 092009BEL182, 2nd para.
- ⁸⁰ CCPR/C/BEL/CO/5, para. 15.

- 81 CAT/C/BEL/CO/2, para. 11.
82 CCPR/C/BEL/CO/5, para. 17.
83 CAT/C/BEL/CO/2, para. 21.
84 CERD/C/BEL/CO/15, para. 14.
85 CERD/C/BEL/CO/15/Add.1, para. 5.
86 CERD/C/BEL/CO/15, para. 13.
87 CRC/C/OPSC/BEL/CO/1, para. 11.
88 CRC/C/OPSC/BEL/CO/1, paras. 29 and 30.
89 CRC/C/OPSC/BEL/CO/1, para. 32; CRC/C/OPAC/BEL/CO/1, para. 12.
90 CRC/C/BEL/CO/3-4, para. 83.
91 CAT/C/BEL/CO/2, para. 17.
92 CRC/C/BEL/CO/3-4, para. 46.
93 CEDAW/C/BEL/CO/6, para. 43.
94 CRC/C/BEL/CO/3-4, paras. 50 and 51.
95 CEDAW/C/BEL/CO/6, para. 27.
96 UNHCR submission to the UPR on Belgium, p. 6.
97 CEDAW/C/BEL/CO/6, para. 19.
98 CEDAW/C/BEL/CO/6, para. 25.
99 E/C.12/BEL/CO/3, para. 29.
100 E/CN.4/2006/19/Add.1, para. 31.
101 ILO Committee of Experts on the Application of Conventions and Recommendations, Individual Direct Request concerning Discrimination (Employment and Occupation) Convention, 1958 (No. 111), 2009, Geneva, doc. No. (ILOLEX) 092010BEL111, 4th para.
102 E/C.12/BEL/CO/3, para. 16.
103 E/C.12/BEL/CO/3, para. 17.
104 ILO Committee of Experts on the Application of Conventions and Recommendations, Individual Direct Request concerning Minimum Age Convention, 1973 (No. 138), 2009, Geneva, doc. No. (ILOLEX) 092009BEL138, 2nd para.
105 CRC/C/BEL/CO/3-4, para. 64.
106 CRC/C/BEL/CO/3-4, para. 56.
107 CRC/C/BEL/CO/3-4, para. 58.
108 E/C.12/BEL/CO/3, para. 21.
109 E/C.12/BEL/CO/3, para. 20.
110 CRC/C/BEL/CO/3-4, para. 66.
111 E/C.12/BEL/CO/3, para. 22.
112 E/C.12/BEL/CO/3, paras. 23 and 37.
113 CERD/C/BEL/CO/15, para. 22.
114 CERD/C/BEL/CO/15/Add.1, paras. 18–24.
115 CERD/C/BEL/CO/15, para. 15.
116 UNHCR submission to the UPR on Belgium, pp. 3–4.
117 CCPR/C/BEL/CO/5, para. 21.
118 CAT/C/BEL/CO/2, para. 6.
119 CAT/C/BEL/CO/2/Add.1, paras. 1–19.
120 UNHCR submission to the UPR on Belgium, pp. 1–2.
121 UNHCR submission to the UPR on Belgium, pp. 5–6.
122 CEDAW/C/BEL/CO/6, para. 37.
123 CRC/C/BEL/CO/3-4, para. 74.
124 CRC/C/OPAC/BEL/CO/1, para. 18.
125 E/CN.4/2006/19/Add.1, para. 36.
126 Pledges and commitments undertaken by Belgium before the Human Rights Council, as contained in the note verbale dated 25 March 2009 sent by the Permanent Mission of Belgium to the United Nations addressed to the President of the General Assembly, contained in document A/63/801.
127 CAT/C/BEL/CO/2, para. 31.
128 CAT/C/BEL/CO/2/Add.1.
129 CEDAW/C/BEL/CO/6, para. 53.
130 CERD/C/BEL/CO/15, para. 30.

¹³¹ CERD/C/BEL/CO/15/Add.1.

¹³² CCPR/C/BEL/CO/5, para. 5.
