



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

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**Committee on the Elimination of Racial Discrimination
Eighty-fourth session**

Summary record of the 2272nd meeting

Held at the Palais Wilson, Geneva, on Friday, 7 February 2014, at 10 a.m.

Chairperson: Mr. Calí Tzay

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The meeting was called to order at 10.10 a.m.

**Consideration of reports, comments and information submitted by States parties
under article 9 of the Convention** *(continued)*

Sixteenth to nineteenth periodic reports of Belgium (continued) (CERD/C/BEL/16-19; CERD/C/BEL/Q/16-19)

1. *At the invitation of the Chairperson, the delegation of Belgium took places at the Committee table.*
2. **Ms. Gallant** (Belgium) said that the Federal Government had decided to establish a national human rights institution in 2011, which would incorporate the functions of all the existing national human rights bodies. The new federal institution would be responsible for analysing migration flows and would work in partnership with the Centre for Equal Opportunities and Opposition to Racism. National legislation had also been amended in 2012 in an attempt to streamline and expedite the application process for obtaining citizenship. The amendments had been designed to promote social integration and harmony, and foreign nationals could apply after either 5 or 10 years of permanent residence in the country, depending on their individual circumstances.
3. As for combating statelessness, steps had been taken towards the ratification of the Convention on the Reduction of Statelessness but there was no mechanism in place to collect precise data on the number of stateless persons in Belgium. As part of measures to tackle the issue, national legislation had been amended to prevent the courts from removing a person's nationality if that would result in his or her statelessness, and to ensure that children born in Belgium were automatically granted citizenship.
4. Regarding the recent act to prohibit clothing which covered the face, the Federal Government had introduced such measures in an attempt to improve social cohesion and integration. The latest act was non-discriminatory and provided for the wearing of the veil or other forms of head covering as long as the face remained clearly visible. Criminal sanctions could be taken against those who breached the provisions of the Act, although the courts could choose to issue administrative sanctions where appropriate.
5. In relation to combating the denial of the Holocaust, national legislation had been amended in accordance with the European Council Framework Decision of 28 November 2008 to include not only the denial of the events of World War Two but also the denial of war crimes, crimes against humanity and genocide.
6. As for the State party's response to trafficking in persons, disaggregated data collected by the network of national reception centres for victims of trafficking showed that most victims of trafficking in Belgium came from Bulgaria, Romania, Morocco, China and Nigeria. National legislation had therefore been amended to include a wider definition of trafficking and to shift the burden of proof from the victim to the public prosecutor. Training sessions had also been organized for all staff in asylum seeker centres to assist with the recognition of child trafficking cases.
7. Turning to the State party's accession to international human rights instruments, she said that Belgium had decided not to ratify the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families for the time being but had begun the ratification process for the International Labour Organization (ILO) Domestic Workers Convention, 2011 (No. 189). As for Protocol 12 to the European Convention on Human Rights and Fundamental Freedoms, further discussions between the Regions and Communities would be required before the ratification process could proceed.
8. Lastly, she noted that only some six complaints against Belgium had been received under the various human rights treaty bodies' individual communications procedures, the

majority of which had been submitted to the Human Rights Committee. Very few complaints relating to racial discrimination had been brought before the European Court of Human Rights under article 14 of the European Convention on Human Rights and Fundamental Freedoms.

9. **Mr. de Valkeneer** (Belgium) said that victims of racial discrimination could claim damages for moral harm and victims of workplace discrimination could file for moral and material damages. Such a differentiated approach guaranteed that victims of racial discrimination were freed from the burden of proof and that any compensation could be paid in a lump sum as part of an administrative procedure.

10. In relation to the treatment of ethnic minorities, there was currently little research into whether Belgian legislation was discriminatory towards such groups and recent studies on the numbers of persons in prisons failed to include ethnic origin. There was no evidence to suggest that ethnic minorities received harsher sentences than other groups. National legislation could, nevertheless, be said to be indirectly discriminatory in terms of pretrial detention, as persons in an irregular situation could be detained if they were likely to abscond, whereas Belgian nationals were not affected. Attempts had been made to find alternatives to pretrial detention in such cases, notably through the use of electronic tags.

11. Regarding legislative provisions, there were three different acts aimed at combating discrimination in all its forms in Belgium but only the Act prohibiting racism and xenophobia provided for criminal punishment. In all cases of discrimination, the burden of proof lay with the public prosecutor rather than the victim. As for the criminal prosecution of a member of the “Sharia for Belgium” group, the offender had recently appealed against his 18-month prison sentence but the Court of Appeal had upheld the original ruling.

12. **Ms. Lefrancq** (Belgium) said that the Centre for Equal Opportunities and Opposition to Racism had drafted an action plan against racism in 2002, in the wake of the World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance, which it had submitted for the Federal Government’s consideration in 2003. A federal action plan had subsequently been introduced in 2014 and to date 7 out of its 10 objectives had been implemented. Some of the objectives had required a significant amount of time to implement as they required consensus and cooperation at all levels of government. An evaluation of the action plan would take place shortly, the results of which would be used to prepare an action plan for the following legislative period.

13. The Federal Government had established a national strategy for Roma integration in 2012 to ensure that the Roma and Traveller communities had equal access to education and appropriate health-care services. A special working group had been established to consider Roma issues and a network of community mediators provided an invaluable exchange of information between the Roma community and the authorities. A national Roma council had also been introduced to represent the Roma community and build links with the Federal Government.

14. As for the rise in anti-Semitism, the Centre for Equal Opportunities and Opposition to Racism had recorded 88 cases of anti-Semitism in 2012, of which 6 cases had been brought before the courts. The judiciary and the police had been working in partnership to tackle the increase in offences and had provided additional assistance to the Jewish community to prevent such acts. The Federal Government had also set up a human rights exhibit in a national museum to raise awareness of the events of World War Two. Regarding the protection of the Muslim community, the Centre for Equal Opportunities and Opposition to Racism had brought several cases of Islamophobia before the courts and civil society had been involved in preparing a strategy for Muslim rights.

15. Turning to the State party’s attempts to prevent discrimination in the workplace, he said that national legislation had been adopted that provided for positive discrimination

measures to increase equality between persons and prevent discrimination. However, any positive actions taken by companies or institutions should be temporary and should be lifted as soon as equality was achieved.

16. **Ms. Bynens** (Belgium) said that there had not been a general ban on wearing veils in schools in Flanders. In 2011, the Flanders Government had decreed that each school authority would retain responsibility for deciding its own policy concerning symbols of religious belief, including the wearing of headscarves. One education board in Flanders had taken the decision to ban religious symbols in 2009 but had suspended the policy in the light of numerous complaints.

17. Regarding access to education, the Language Act of 1963 stipulated that every Community must offer lessons in its own official language. The exception to that rule was in the Brussels Capital Region where education was offered in both French and Flemish. For Flanders, special regulations had also been adopted to provide primary education to French families living in the surrounding areas of the Brussels Capital Region upon request. As for the introduction of lessons in other non-official languages, the Flanders Government had recently taken steps to investigate whether the inclusion of non-official languages in the curriculum would be beneficial.

18. In order to combat Islamophobia, the Flanders Government had introduced several inclusion policies intended for the Muslim community and had established a steering committee to monitor the integration of all religious groups in society. It had also taken steps to prevent discrimination against the Roma and Traveller communities and had subsidized the acquisition of caravan sites by up to 90 per cent.

19. As for the employment rates of non-European Union residents, the Flanders Government had introduced a policy to encourage diversity and enhance the participation of ethnic minorities in the labour market. In order to ensure greater diversity in the civil service, a five-year diversity strategy had been designed to encourage applications from a much wider pool of applicants, including women, persons with disabilities and ethnic minorities.

20. **Ms. Ouahdi** (Belgium) said that in Wallonia there was no specific legislation governing the wearing of the veil and each school authority decided its own policy regarding symbols of religious beliefs. As for the Roma and Traveller communities' access to education, it was mandatory for all children between the ages of 6 and 18 to attend school and most of the obstacles which had hindered Roma and Traveller children's attendance at school had been removed. In addition, a network of community mediators had been established to liaise between the Roma community and schools, and teaching materials had been developed to help teachers deal with any issues that might arise. As for the languages used in the education system, a specific programme had been established to provide lessons in the official languages of the Region, namely French in Wallonia and French and Flemish in the Brussels Capital Region. Lessons taught in other languages could be arranged if required and measures had been taken to make minority languages, such as Turkish and Arabic, available to students upon request.

21. Turning to the issue of diversity in the civil service, she said that the Walloon Government had recently introduced a diversity programme aimed at attaining gender equality, combating discrimination based on sexual orientation, improving access for persons with disabilities and integrating foreign nationals.

22. **Mr. Villan** (Belgium) said that the Walloon Government had started to implement an integration strategy aimed at improving reception formalities for migrants and strengthening their knowledge of national institutions and languages. A social integration service would shortly be launched throughout the region to provide additional support for migrants. Since 2008, a series of positive discrimination schemes had also been established

to assist with the integration of migrants and vulnerable persons in the labour market, and special positive measures had been introduced to ensure that families, migrants, the homeless, and other vulnerable groups had priority access to social housing.

23. As for providing assistance to the Roma and Traveller communities, the Walloon Government had supported Roma and Traveller associations since 1994 and had taken steps in 2003 to establish a mediation scheme to enhance their integration. The regional authorities had also provided support for the purchase of land for caravan sites.

24. **Mr. Foubert** (Belgium) said that the Brussels Capital Region had implemented the European non-discrimination directives through specific ordinances in both the private sector and the civil service. The Government had subsidized publications and festivals to raise public awareness of the phenomenon of racism generally. More than one hundred companies in the region had introduced diversity plans, and almost 20 per cent of their employees were of non-EU origin.

25. Similar efforts were being made in the public sector. According to a survey conducted in 2013 by the Brussels regional public service, almost 20 per cent of civil servants were of non-EU origin (based on the 1995 composition of the European Union). The Government had developed a variety of measures to ensure that its services reflected the composition of the population they were serving. The nationality requirement for the regional government services had been abolished in 2002.

26. The Government was cognisant of the risk of ghettos being formed, and it therefore had plans to ensure the balanced distribution of public housing throughout the 19 municipalities in the Brussels Capital Region. With regard to the Roma, the parliament of the Brussels Capital Region had adopted an ordinance in March 2013 amending the housing code to recognize mobile dwellings as a legitimate form of housing. An order was currently being drafted in consultation with representatives of the Roma community to define the safety criteria for mobile housing.

27. **Ms. Van Lul** (Belgium) said that the General Inspectorate of the Federal and Local Police was fully independent; although some members of the inspectorate had police authority, they were not attached to either the federal or local police. The inspectorate came under the authority of the ministers of the interior and of justice. The inspectorate submitted an annual activity report to Parliament, copies of which would be provided to the Committee.

28. As part of the implementation of the European Union directive on returning illegally staying third-country nationals, the Inspectorate had been designated as the independent body for monitoring forced returns. The independence of the inspectorate had not been questioned during the European Commission's evaluation of the implementation of the directive in Belgian law. In fact, other Member States had been impressed by the quality of monitoring by the inspectorate and wished to draw on the Belgian experience in their own countries.

29. Regarding the inspectorate's resources, thanks to funding from the European Return Fund a four-person unit had been established in the inspectorate to deal exclusively with forced returns. As a result, the number of returns monitored had increased from 54 in 2011 to 163 in 2013. Negotiations were currently under way with the European Commission in relation to subsidies for the 2015–2020 period. Monitoring of returns was not systematic but was carried out on the basis of a risk analysis, which included factors such as the opposition of the person to be returned, the opposition of supporters and potential difficulties with the authorities in the destination country. No monitoring was required for returns that were voluntary in nature. The inspectorate focused on escorted returns, in the course of which restraints and force were permitted. It was not possible for the person being returned to be unaware of the role of the inspectorate, as inspectorate officers were obliged

to inform the person whenever they were monitoring a return. The inspectorate had never observed any inappropriate conduct during returns, but if it did it would be obliged to stop the return and immediately inform the relevant authorities.

30. With regard to family reunification for Belgian citizens, following a 2013 ruling by the Constitutional Court, a legislative provision had been annulled because it did not provide for an exception to the resource requirement if the family members involved were the minor children of Belgian citizens or their partners.

31. With regard to the cooperation of victims of trafficking in persons, there were no plans to amend legislation. No cooperation was requested initially, and the person did not need to identify as a victim in order to receive protection. The person had a period of 45 days in which to request victim status; the victim then reported the crime and made a statement. Cooperation was required in order to protect other potential victims and to prosecute and convict those responsible. If the victim cooperated, they did not have to appear as a witness. The European directive defined the conditions for granting residence permits to victims in such cases.

32. Belgium would be implementing the new European asylum package, which marked an important step towards a joint European approach to asylum, and would adapt its legislation as necessary.

33. Detention at borders was not systematic; persons were held if they did not meet entry requirements and had consequently been refused entry to the territory. The Schengen Borders Code and the Chicago Convention provided that such persons remained at the airline's disposal, without prejudice to their right to apply for asylum. Minors were held at the border only if they had declared themselves to be unaccompanied foreign minors and there was a doubt as to their actual age. They could then be held pending their identification as unaccompanied minors by the Guardianship Service. In 2013, only 38 per cent of persons who had claimed to be minors had actually been proved to be so. Under the law, unaccompanied minors could not be held in closed centres.

34. **Ms. Rochez** (Belgium) said that police training was provided on the basis of a needs assessment. Sustained efforts were being made to strengthen training at all levels on fundamental rights, non-discrimination and diversity. Training was offered in cooperation with relevant stakeholders and was focused on real situations encountered by the police in their daily work.

35. **Ms. Oger** (Belgium) said that diversity training was provided by the Centre for Equal Opportunities and Action to Combat Racism. Awareness-raising campaigns and seminars were organized on issues such as how to treat lesbian, gay, bisexual and transgender persons, Roma or persons with disabilities.

36. **Ms. Haven** (Belgium) said that the State party had made an interpretative declaration rather than a reservation to article 4 of the Convention. The declaration was not an obstacle to the fulfilment of the State's obligations under that article. Follow-up with civil society would be organized following the publication of the Committee's concluding observations.

37. **Mr. Diaconu** asked whether it was stateless persons themselves who submitted requests to the courts to be granted Belgian nationality. He wondered how they were expected to prove that they did not hold any nationality. He welcomed the measures being taken to increase the percentage of persons of immigrant origin in the civil service, but stressed that integration should apply only to the economic and social domains and not to the spheres of culture, language or tradition. The Belgian authorities should endeavour to resolve the issue of minority language teaching at the local level. He would welcome

clarification of the interpretation of the term “migrant” in Belgium – persons with Belgian citizenship should no longer be considered migrants, regardless of their origin.

38. **Mr. Amir** asked the delegation to comment on the recent case of the expulsion of some 100 French citizens, who had abused the Belgian social security system.

39. **Ms. Gallant** (Belgium) said that in statelessness proceedings before the courts, the burden of proof lay with the applicants, who had to present documents from the embassy of the country with which they had ties.

40. **Ms. Van Lul** (Belgium) said that the Belgian Government attached great importance to the principle of the freedom of movement of European Union nationals, but the case of social security abuse had been considered sufficiently serious to warrant expulsion.

41. **Mr. Villan** (Belgium) said that, in the past, it had been possible to acquire Belgian nationality relatively quickly. As a result, some migrants had not overcome the challenges of integration before being made Belgian citizens. They therefore faced the same inequalities, in relation to language, for example, as migrants and required support in order to be assured of equal opportunities.

42. **Mr. Vázquez** noted that the fact that certain schools in the French Community had banned the wearing of the veil, with the risk of segregating certain ethnicities into separate schools and leading to a lack of social mixing. He drew the delegation’s attention to the concluding observations of the Committee on the Elimination of Discrimination against Women along those lines.

43. Noting that there was not an actual ban on the burka but rather a general ban on clothing that obscured the face, he asked what other type of clothing might be targeted. The fact that there were very few situations in which the ban applied meant that there was perhaps more of a concern about what the law conveyed to the communities concerned.

44. Given that it had already been seven years since the legislation on positive action had been enacted, the Committee looked forward to the implementing decree being issued shortly. He would be interested to hear how the Dublin III Regulation was being interpreted and implemented in Belgian law, given that it permitted detention at borders when there was a risk of absconding. With respect to the declaration on article 4, he wished to know whether the Government interpreted that article as not requiring political parties and organizations that advocated racial hatred to be declared illegal. He expressed concern that the Centre for Equal Opportunities and Action to Combat Racism would no longer be dealing with migration issues. He would be interested to hear the rationale behind the decision to transfer responsibility for migration issues to a separate entity. He feared that the Centre for Equal Opportunities might be severely weakened, as so much of its work to date had revolved around discrimination against migrants.

45. Economic integration as a condition for obtaining nationality created a vicious circle insofar as people needed nationality to obtain a job but needed a job in order to be granted nationality. He therefore wondered whether other measures of integration, such as voluntary work, might be substituted for paid employment. He asked the delegation to comment on reports that some public social welfare centres had been refusing to provide services to non-citizens who were HIV-positive or undocumented unless they signed an agreement to leave the country voluntarily. He noted that the law of January 2012 under which European Union citizens were not entitled to social assistance during the first three months of their stay in Belgium could lead to inhuman and degrading treatment. Lastly, he invited the delegation to comment on whether the judgement of the European Court of Human Rights in the *Eweida* case would have an impact on the policy of some private employers, who had banned the wearing of the veil in jobs that involved interaction with the public.

46. **Mr. Murillo Martínez** said that it would be useful to hear about measures taken by the State party in connection with the International Year for People of African Descent. He would also welcome information on any far-reaching policies the State party might have with regard to companies and human rights. Lastly, he encouraged the delegation to reflect on how Belgium might contribute further to the provision of moral redress to victims of human trafficking.

47. **Ms. Haven** (Belgium) said, with respect to article 4 of the Convention, that Belgium had entered an interpretative declaration, rather than a reservation, and that it had done so following a recommendation from the Council of Europe. The decision to maintain the interpretative declaration was not in itself an obstacle to the fight against racial discrimination and incitement to racial hatred.

48. **Ms. Gallant** (Belgium), in response to questions about the burka, provided a summary of Constitutional Court Ruling No. 145/2012 of 6 December 2012. She said that, if the Committee members wished, they could consult the text of the ruling in its entirety during the afternoon session.

49. With regard to the new interfederal status of the Centre for Equal Opportunities and Action to Combat Racism, she said that the areas of migration, human trafficking and the fundamental rights of foreign nationals, which came under federal competence, would be dealt with by a new federal centre. The federal and interfederal centres would be located in the same building, thereby providing scope for cooperation and ensuring that staff expertise would not be lost.

50. Turning to the issue of economic integration as a requirement for acquiring Belgian citizenship, she said that exemptions were granted to certain groups of people, including foreigners belonging to underprivileged social groups and those with important ties, family or otherwise, to Belgian society. Persons who went through the longer process of naturalization, which took 10 years, were also exempt, provided they could speak one of the three official languages and participated in community life.

51. **Ms. Lefrancq** (Belgium) said that, while there was currently no ban on organizations or political parties that advocated racial discrimination, a number of judicial rulings were in place to punish individuals who did so. Parliamentary debates on the matter had led to the conclusion that prohibiting organizations would not prove effective, as members could simply establish a different organization with the same agenda. There were, however, plans in place to extend relevant legislation to cover individuals belonging to groups that advocated racism or racial discrimination. In the case of the Islamic movement Sharia4Belgium, one person had been sentenced to 18 months' imprisonment and the organization had been dissolved.

52. Belgium and its European partners would actively cooperate with the Intergovernmental Working Group on the effective implementation of the Durban Declaration and Programme of Action, which would meet before June 2014 with a view to putting forward proposals relating to the International Decade for People of African Descent. Moreover, it would call for the ratification and full implementation of the Convention in all European Union member States.

53. Belgium fully assumed the duty of remembrance and debates were being held on how best to honour its responsibilities in that regard.

54. **Ms. Van Lul** (Belgium) said that the report of the Inspectorate-General of the Federal and Local Police would be passed on to the Committee along with its translation later in the day. It could not, however, be published until the Minister of the Interior had presented it to Parliament.

55. Pursuant to article 28 of the Dublin Regulation, which had been directly applicable in Belgium since 1 January 2014, detention was permissible only if the person posed a significant risk of absconding. Moreover, the time limit for detention would be no longer than the time reasonably necessary to carry out the administrative procedures for the Dublin transfer. A bill was being drafted to amend the relevant national legislation.

56. **Ms. Oger** (Belgium) said that contact police officers would be appointed in each federal service for incidents involving discrimination. Federal and local police forces included lesbian, gay, bisexual and transgender (LGBT) staff and there was an organization, Rainbow Cops Belgium, to represent and defend their interests. All contact officers would receive training in a number of modules over the course of two or three days. The training would be provided with support from the Centre for Equal Opportunities and Action against Racism and the Institute for Equality between Women and Men. A diversity network within the integrated police service met five times a year to discuss ways of supporting staff on the ground.

57. **Mr. De Valkeneer** (Belgium) said that one way of overcoming the lack of legislation specifically prohibiting organizations and political parties that advocated racial discrimination would be to apply article 5 of the Criminal Code on the criminal responsibility of legal entities. The article could be invoked, however, only once proceedings had been brought against a legal entity and a sentence had been handed down.

58. Efforts were being made to ensure that contact magistrates for racism and discrimination were assigned the responsibility of handling cases in that domain in order to develop their theoretical and practical expertise. Contact police officers played a crucial role in liaising with the various levels of the criminal justice system.

59. **Mr. Kut** said that he was concerned that the complicated federal structure in Belgium might compromise the effectiveness of policies to combat racism. He asked whether it would be possible to harmonize legislation across the different regions and communities. He also wished to know what the State party's recent record was with regard to racism in political discourse. The delegation should indicate whether an adequate system was in place to deal with the issue.

60. **Mr. Kemal** asked whether the hijab came under the prohibition of certain veils in public places. He said that, should the treaty body strengthening process fail in its objectives, it might be worth considering the incremental approach to periodic reports previously taken by the State party in an attempt to clear the backlog.

61. **Ms. Lefrancq** (Belgium) said that, because of the respect that had to be shown for the federated entities and the autonomy of regions in Belgium, it was not always possible to harmonize legislation. The composition of her delegation and the submission of a consolidated report were, however, indicative of considerable dialogue and cooperation between entities. Racism in political discourse was covered by the Act of 30 July 1981.

62. **Ms. Gallant** (Belgium) said that the hijab did not come under the Act of 1 June 2011 and could therefore be worn in public places. With regard to hate speech, two persons had been convicted in 2006 for offences relating to material that appeared on the flyers and website of the National Front.

63. **Mr. Lindgren Alves** said that he completely agreed with the prohibition of the burka on security and human rights grounds.

64. **Ms. Crickley** said that her understanding was that the national plan of action against racism as called for by the Durban Declaration and Programme of Action would not cover a number of issues because of the State party's federal structure. She was concerned that the State party was still operating on the basis of the 2004 federal action plan to combat racism, anti-Semitism and xenophobic violence. In that connection, she wished to know what

consequences the approaching elections in Belgium would have on the implementation of provisions to establish a national human rights institution and strengthen the Centre for Equal Opportunities and Opposition to Racism. Lastly, she said that, for the State party to live up to its reputation with regard to combating racism, its practice should go beyond mere compliance with measures related to asylum.

65. **Ms. Lefrancq** (Belgium), responding to a concern about the 2004 federal action plan to combat racism, anti-Semitism and xenophobic violence, said that it had not been possible to implement all 10 aspects of the plan. The approaching elections should not jeopardize the provisions currently in place. A new national plan was needed to combat racism and address issues such as anti-Semitism and Islamophobia.

66. **Ms. Van Lul** (Belgium) said that her country was a great defender of the rights of asylum seekers and would continue to occupy a leading role in that domain.

67. **Mr. Vázquez** said that training, sensitization and education were crucial as part of efforts to promote tolerance and comply with the Convention. Moreover, it was important to ensure social mixing in education in order to foster tolerance from a young age. He was therefore concerned about certain policies that might lead to segregation in education.

68. **Ms. Haven** (Belgium) said that her country attached great importance to the issue of racial discrimination at both a national and international level. She agreed with Mr. Vázquez that education was fundamental and said that it was the bedrock of Belgian society.

The meeting rose at 1.05 p.m.