

# TREATY BODY MONITOR

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Human Rights Monitor Series

## COMMITTEE ON THE ELIMINATION OF RACIAL DISCRIMINATION 72<sup>ND</sup> SESSION BELGIUM, 14<sup>TH</sup> & 15<sup>TH</sup> REPORTS 25 FEBRUARY 2008

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### Information submitted to the Committee

On 25 February 2008 the Committee on the Elimination of Racial Discrimination (the Committee) considered the 14<sup>th</sup> and 15<sup>th</sup> combined periodic report of Belgium regarding its implementation of the International Convention on the Elimination of all Forms of Racial Discrimination (the Convention). Belgium ratified the Convention on 17<sup>th</sup> of August, 1967 without reservations.

## State report

Belgium submitted its periodic report to the Committee on 13 September 2006.<sup>1</sup> The report contained the overview of the progress made towards the elimination of racial discrimination in Belgium since the country's last report in 2002.<sup>2</sup> The report was quite comprehensive in addressing issues. Concerning Article 2, the report stressed the international commitments it has made, such as ratifying the Optional Protocols to the *Convention on the Rights of the Child* regarding children in armed conflict, child prostitution and pornography, the Optional Protocol to the *Convention on the Elimination of All Forms of Discrimination of Women*, and *International Labour Organisation Convention No. 182*. It also highlighted the constitutional and legislative amendments and developments since 2002, such as banning racist organisations and propaganda and dealing with the racist *Vlaams Blok* party, and provided information on other awareness-raising measures amongst public stakeholders. The report provided information on the 'federal action plan on racism, anti-Semitism and xenophobia' in effect since 2004 and its integration programmes in the Walloon and Flanders regions. The report then briefly touched upon Articles 3 and 4, and provided information of how the Government handled issues under Articles 5, 6 and 7 of the Convention, concentrating on Article 5. This included nationality and marital laws, political rights, and the rights to freedom of religion, employment, and housing.

## List of issues

The Committee's country rapporteur for Belgium Mr Morten Kjaerum submitted a comprehensive list of issues to the State party.<sup>3</sup> He also gave an oral presentation on the day of the review to complement this document. Significant issues raised included how the Government was dealing with the rise of the racist political party *Vlaams Belang*; legislation related to combating racism, especially in relation to the 2004 Action Plan on Racism; the training of justice administrative staff; the housing of ethnic minorities; the treatment of asylum seekers; efforts made towards better integrating the Wallonia and Brussels Capital regions; new provisions to punish trafficking; the treatment of the Roma and other travelling populations; and the political participation of non-Belgians in elections. Written replies were provided to the Committee only the morning before the session and was not made available to the public. The delegation incorporated the content of its written replies into its initial presentation.

## NGO report and briefing session

There was only one NGO parallel report for Belgium, submitted by the *Ligue des droits de l'homme* (League for Human Rights). The text, however, was only presented in French, resulting in some Committee members not being able to utilise the information prior to the session. However, the organisation held a NGO briefing session prior to the meeting itself, in collaboration with the International Federation for Human Rights (FIDH).

The League first noted as positive that the Government has enacted three pieces of legislation to address issues regarding racial discrimination, gender, and the judicial system. Concern was expressed in relation to the opposition from racist parties towards the new law on racism prohibiting racist public speeches, on the grounds that it violates the right to freedom of expression. Concern was also expressed at the fact that the Flemish region has taken a decree in 2006 to limit access to housing only to those who can speak Flemish or have stated the intent to learn the language. The *Ligue des droits de l'homme* also asked the Committee members to point out to the Belgium delegation that there is no entity to deal with complaints regarding language discrimination.

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<sup>1</sup> CERD/C/BEL/15, 13 September 2006. Available at: [www2.ohchr.org/english/bodies/cerd/cerds72.htm](http://www2.ohchr.org/english/bodies/cerd/cerds72.htm)

<sup>2</sup> CERD/C/60/CO/2, 21 May 2002. Available by searching: [tb.ohchr.org/default.aspx](http://tb.ohchr.org/default.aspx)

<sup>3</sup> CERD/C/BEL/15. Available at: [www2.ohchr.org/english/bodies/cerd/cerds72.htm](http://www2.ohchr.org/english/bodies/cerd/cerds72.htm)

The issue of the wearing of headscarves to public schools was also raised. The Walloons and the Flemish both adopt the same approach towards this, and leave it up to the schools to decide whether to allow them or not. Most schools prohibit the wearing of headscarves, which the Ligue des droits de l'homme claimed led to segregation based on religion. Concern was also raised in relation to the detention of asylum seekers, which often includes placing very young children in damaging environments, as was cited in the January 2008 decision by the European Court of Human Rights (*Riad and Idiab v. Belgium*). The League argued that brutality is still being practiced in these centres, and despite its decline due to the monitoring of NGOs, people are still being physically abused in cells and during their transit to airplanes. The installation of CCTV cameras was a solution proposed by the organization although it claimed that this was rebuffed by the Government on the grounds of insufficient funds.

### **Themes and issues**

The delegation of Belgium was headed by Mr Bart Ouvry from the Permanent Mission of Belgium to Geneva, and was supported by eleven delegate members representing the Ministry of Justice, Interior, the police, and the Belgian Centre for Equal Opportunities and Opposition to Racism. The delegation contained representatives from both the Flanders and Walloon communities.<sup>4</sup>

In his opening statement, head of delegation Mr Ouvry noted that the recent political crisis in Belgium was exaggerated by the international media. He stated that although Belgium does not have an established Government, no blood had been shed. He also noted that his delegation has not been able to answer the rapporteur's list of issues in a full and comprehensive manner, as they were given a mere six weeks prior to the session to respond. He then went on to answer the questions posed by the Committee in the order which they were presented. The opening statement was followed by a series of questions by the country rapporteur Mr Morten Kjaerum, followed by most of the Committee members. These points are covered in detail below according to their themes.

### **The status of the Convention under domestic law**

In its initial statement, the delegation explained that the Belgian general anti-discrimination law incorporated the provisions of the Convention into domestic law. The law includes all obligations enshrined in the Convention, and therefore jurisprudence did not mention the Convention directly. Responding to question 10 of the list of issues asking if the State party considered withdrawing its reservation to Article 4, the delegation stated that it did not consist of a reservation but was an interpretative declaration following from a Council of Europe directive.

### **Legislative and institutional framework**

The country rapporteur Mr Kjaerum and a number of Committee members commended the Government for a number of initiatives combating racial discrimination, which included the 2004 Action Plan on Racism, Anti-Semitism and Xenophobia; and the establishment of the Centre for Equal Opportunity and Action to Combat Racism (the Centre). Mr Kjaerum further welcomed the enactment in May 2007 of three new acts on discrimination, but noted with concern some discussions indicating that if the outcome of the then ongoing

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<sup>4</sup> Specifically, the delegation consisted of: Mr. Bart OUVRY (head of delegation, representant permanent adjoint – Geneve); Mr Alexander HOEFMANS (Ministere de la Justice); Mr Geert DE VULDER (Ministere de l'Interieur/Office des Etrangers); Mr Gil L. BOURDOUX (Comite P, organe de controle sur les organs polices); Ms Amina NADI (Ministere de l'Emploi, du Travail et de la Concertation sociale); Mr Francois SANT'ANGELO (Centre de l'Egalite des Chances et de la Lutte contre le Racisme); Mr Jochen DEVYLDER (Representation permanente) ; Ms Marie-Henriette TIMMERMANS (Delegation de la Communaute francaise de Belgique et de la Region wallonne) ; Mr David MAENHAUT (Ministere de la Communaute Flamande) ; Mr Michel VILLAN (Ministere de la Communaute francaise et Ministere de la Region wallonne) ; Ms Audrey MONCAREY (Delegation de la Communaute francaise de Belgique et de la Region wallonne) ; and Madame Dele LEFEVERE (Representation permanente)

political crisis<sup>5</sup> was the establishment of a Government under Mr Yves Leterme, laws against discrimination would be re-oriented and a new federal centre to fight against discrimination would no longer have the mandate to bring cases to court. He said that it would be very unfortunate if the list of protected minorities was restricted and if the new centre did not preserve its competence of bringing cases to court. Committee member Mr de Gouttes noted with disappointment the gap between the anti-discrimination legal framework and its actual implementation, and added that the limited number of complaints on the matter should not be considered as positive, but rather a signal of social disapproval, lack of awareness and difficulties to access justice.

Responding to Mr Kjaerum, the delegation answered that the suggestion to limit the competence of the Centre for Equal Opportunities was made by a political party which was not part of the Government nor was expected to become in a medium term future, although it had straight [??] relations with one of the parties of the Government. It further explained that the work the Centre was being largely recognized and that the Government had not tried in any way to limit its competency. Addressing Mr de Gouttes' statement, the delegation highlighted the adoption of a circular establishing the various criteria to determine an act of discrimination, and added that trainings were being carried out for the judiciary and the police forces to raise awareness of anti-racism laws.

In its concluding observations, the Committee welcomed the existence of the Centre for Equal Opportunity and Action to Combat Racism, as well as other bodies with the mandate to promote and protect human rights, but recommended the State party to consider the establishment of an independent national human rights institution in accordance with the Paris Principles.

### **The definition of racial discrimination**

The definition of racial discrimination was an issue raised by many Committee members. Mr Kjaerum noted that the new acts adopted by the Government on 10 May 2007 are now more restrictive in certain respects, such as requiring the demonstration of racist intent in order to punish acts of discrimination. He requested clarification on whether this restriction also applied to civil punishments resulting in monetary compensation. Committee member Mr Sicilianos agreed with Mr Kjaerum in that the definition of racism has become more restrictive, but also pointed out that it could be interpreted as broader definition and asked for more information in this regard. Mr Ouvry responded that the Government is bound by EU guidelines in defining how to determine racism. Towards this, Committee member Mr Ion Diaconu pointed out that the European Union in principle seeks to apply the highest defined instruments possible. He argued that there are no grounds to limit the existing definition of racism on this fact alone. France, for example, did not use the EU guidelines to restrict its definition.

The Belgium delegation first noted that a Constitutional Court decision acknowledges the European directive. However it argued that the civil court approach has made possible more effective action against racism, as it had lowered the burden of proof requirement. Considerable financial compensation to the victims is possible under this system. The less stringent requirements have also led to an increase in the number of complaints.

The Committee did not comment further on this issue during the session, and did not comment on this point in its concluding observations.

### **Racism and xenophobia in the political environment**

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<sup>5</sup> Please note that on 20 March 2008 Mr Yves Leterme took over as Belgian prime minister, ending nine months of deadlock caused by the collapse of coalition talks between Flemish and Francophone parties.

Belgium consists of Flanders of the northern region, who speak Dutch or Flemish, and Wallonia of the southern region, who speak French. There is also a German-speaking population to the East. To incorporate these populations the Belgium Government has taken the form of a loose federation, and has gradually given power over to regional authorities. It is observed that the two populations have become segregated from each other, living in disparate social and political spheres. Thus, in the 2007 elections a political party that has been previously found guilty of racist and discriminatory acts were brought back into the Belgium Parliament, receiving almost 12% of total votes. According to Committee member Mr Morten Kjaerum, this violated Article 4 of the Convention.

Concerning the treatment of the *Vlaams Belang* (or ‘the Flemish Interest’), the head of delegation Mr Ouvry stated that at present there is no explicit legislation prohibiting racist organisations. However, the Ministry did invite the new Parliament to resubmit the Bill that would prohibit such organisations. He cited that an appeal against this party has been placed since 1989, back when it was called the *Vlaams Blok* (or the Flemish Block), which is still under deliberation since the reopening of the case in November 2007, after numerous suspensions. He assured the Committee that the Government is monitoring their publications, and have taken legal action against the publication of racist material.

Committee member Mr Kjaerum addressed this issue in his questions to the delegation. He inquired whether the *Vlaams Belang* has access to federal funds equal to that of other political parties, and whether the Parliaments of both linguistic communities had ever unilaterally withdrawn funding, as this is possible under the current legislation. He also asked for the status of the draft legislation that would introduce the automatic loss of certain civil and political rights in cases of conviction for racism, commending this as a positive step towards implementing Article 4 of the Convention. He also asked why such racist organisations were gaining popularity in Belgian society, and if there were any measures taken to forge a common sense of Belgian identity. Committee member Mr Regis de Gouttes also asked what the constitutional court was doing with regards to this issue.

With regards to the attraction the *Vlaams Belang* holds to the people, Mr Ouvry likened it to the French National Front, and stated that the party is recently refraining from racist rhetoric and assuming nationalist policies, which appeals to a sizable portion of the population. With regards to the identity question, he argued that the crisis is political and rather than a question of national identity. Hence building a unified Belgium identity is not a Governmental priority. The representative of the Flanders Community, Mr David Mainhaud, added that there is reluctance in the Flanders population in assuming such an identity. He also pointed out that extremist political parties are usually evident at the federal level, as regional parties usually stay away from the extreme right.

The Committee did not address this point any further, but in its concluding observations<sup>6</sup> further expressed concern with the judicial challenges presented by the racist parties. It therefore recommended that the State party strengthen its measures to prevent and combat xenophobia and racial prejudice amongst politicians, public officials and the general public.

### **The justice system**

Country rapporteur Mr Kjaerum referred to paragraph 264 of the State report by indicating that there had been an increase on the number of sentences for racist offences, and asked what the average time length was to deal with these types of cases and what their outcomes were. He also enquired why the majority of complaints on racism had been dismissed.

The delegation explained that the increasing number of sentences on racial discrimination did not necessarily represent an increase on the number of racist acts, but also reflected a more efficient prosecution system and

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<sup>6</sup> CERD/C/BEL/CO/15, Paragraph 11 and 12. Available at: [www2.ohchr.org/english/bodies/cerd/cerds72.htm](http://www2.ohchr.org/english/bodies/cerd/cerds72.htm)

an increased awareness of society on the matter. Regarding the number of dismissed complaints, it clarified that if the Prosecutor's office did not believe the charge was justified, it did not lodge a complaint so as to avoid overburdening the justice system. It stated that the Centre for Equal Opportunities and Action to Combat Racism could launch civil cases and entrust a judge to investigate charges, but could not interfere in the work of judicial authorities. Furthermore, it stated that the Centre had been promoting awareness-raising of the police and of the judiciary on the importance of combating racism. It stressed that greater use of mediation was needed, given that judicial procedures were very long.

Committee member Mr de Gouttes noted with interest the possibility of using quasi-judicial mediation and wondered how effective this mechanism was. The delegation responded that quasi-judicial mediation depended on the initiative of the Prosecutor's Office and added that despite the Center's frequent suggestion, it had not been used often. The Committee also sought information on outcomes of consultations with religious groups so as to develop a cultural dialogue.

In its concluding observations, the Committee urged Belgium to ensure effective remedies against acts of racial discrimination and requested that the next periodic report provide detailed information on investigation, prosecution and conviction of racial offences.

Committee member Mr Kjaerum welcomed the trainings on anti-discrimination provided for judges and prosecutors, but noted with concern that according to a study held by the National Institute on Criminal Statistics and Criminology in 2005, youth of foreign origin seemed to be treated more harshly than youth of Belgian origin. He enquired what the Government intended to do so as to overcome this reality and further reminded the delegation of the Committee's General Recommendation 31 on discrimination in the administration of justice. The delegation stated that this kind of treatment was not intentional, but the subconscious result of a vicious circle of perceptions on the basis of persons' economic and social backgrounds. It voiced the need to break the pattern through awareness raising campaigns and trainings.

In its concluding observations, the Committee urged the State party to develop a strategy taking into account General Recommendation 31 so as to ensure that all persons are treated equally in the penal system. Finally, it recommended further awareness raising campaigns and education programs on the Convention, with special consideration to the police and criminal justice officials.

### **Police forces**

The country rapporteur Mr Kjaerum referred to the last concluding observations of the Committee of May 2002,<sup>7</sup> which expressed concern with the number of racist incidents involving police officers. He noted that the State report mentioned the existence of a Standing Committee on Police Oversight and of an Integrated Police Force Diversity Action Plan, both aimed at enhancing respect for human rights in the police forces through strategies such as training courses, and wanted to know if these courses were actually being implemented. Furthermore, Mr Kjaerum requested further statistics on the composition of the Belgian police forces and wondered if the Integrated Police Force Diversity Action Plan provision encouraging the recruitment of members of minorities had been implemented successfully.

The delegation referred to a directive from the Ministry of Justice designed to ensure coordinated policies between the different police districts, which include an annual evaluation of practices and the training of police officials. It also mentioned the setting up of training for policemen by a network within the association of prosecutors. Regarding the composition of the Belgian police forces, the delegation responded that it was not able to provide precise data, but noted that between 2003 and 2007 the percentage of foreigners in the federal police increased from 10% to 12%.

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<sup>7</sup> CERD/C/60/CO/2, available at <http://tb.ohchr.org/default.aspx?country=be>

Committee member Mr Prosper welcomed training and awareness raising initiatives, but inquired whether there were disciplinary mechanisms holding law enforcement officials who had not complied with anti-discrimination legislation accountable. The delegation outlined three mechanisms to which victims could benefit from; a police internal inquiry, which can lead to disciplinary penalty depending on the proof; an external extra judicial service; and the possibility of launching a criminal complaint. It noted the conviction of a former policeman for police brutality with racist intent as an example.

In its concluding observations, the Committee urged the Government to ensure that the police forces are trained in human rights and to investigate all charges of excessive use of force perpetrated by law enforcement agents.

### Migration policy

Committee member Mr Kjaerum commended the Government for its Civic Integration Policy, which includes language training, an introduction to Belgian society, and support from the Flemish Employment Office. He asked what criteria were used to consider an application admissible, the average time length for an application to be considered, the percentage of applications declared admissible, and if asylum seekers were allowed to work. Finally, Mr Kjaerum stressed that the State report did not contain much information on integration policies in the Wallonia and in the Brussels capital region, and wondered if they were similar to the ones adopted in the Flanders region. Committee member Mr Avtonomov referred to the last concluding observations of the Committee on Economic, Social and Cultural Rights,<sup>8</sup> which expressed concern that access to health for undocumented migrant workers was restricted to urgent medical needs, and wondered whether the Government had taken steps to overcome this situation.

Delegation member Mr de Vulder explained that in June 2007 there was an amendment to the process of refugees seeking asylum, which eliminated the question of admissibility. Therefore, currently all requests of asylum were evaluated by the commissioner general, with the exception of requests that weren't within the country's responsibility as defined by the *Dublin Convention*.<sup>9</sup> He explained that recognized refugees were integrated into society, but stressed that asylum-seekers did not have access to the labour market during the examination of their request, although they were provided with accommodation and material support. On access to health, Mr de Vulder confirmed that urgent medical care was provided for foreigners, but noted that because there was no official directive of what would be considered an emergency, it was left to the attending doctor to determine the need to provide medical care on a case-by-case basis. He stressed that all children residing illegally in the country and members of their families had access to medical care and since the June 2007 amendment people residing illegally in Belgium could request residence authorization on medical grounds, through the presentation of a medical certificate, even if the treatment wasn't urgent.

Committee member Mr Lindgren wanted to know if second generation immigrants were considered Belgians, and Mr de Gouttes expressed concern with the increased restrictions to issue tourism visas, particularly affecting Africans. Finally, Mr Kjaerum wondered if the Government would comply with the decision of the European Court of Human Rights condemning detentions in airport transition zones.

The delegation acknowledged that Belgium had a 'long tradition of neglecting measures to enhance integration of immigrants', but noted that the Government was currently fighting segregation, promoting multiculturalism, cultural mediation, and literacy training, and supporting the teaching of the language of origin. It highlighted the importance of promoting participation of immigrants, and shed light on the

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<sup>8</sup> E/C.12/BEL/CO/3. Paragraph 21 reads "the Committee notes with concern that access to health care facilities, goods and services for persons belonging to vulnerable and disadvantaged groups, such as undocumented migrant workers and members of their families, is limited to access to urgent medical care".

<sup>9</sup> The *Dublin Convention* is a European Union law intended to clarify which member State is responsible for a particular asylum seeker. The aim is to ensure that at least one member State deals with the application and also to prevent that numerous member States consider the same application.

establishment of a Minorities Forum, which has been enhancing dialogue between minorities and the Government. On access to nationality, the delegation said that at the age of 18 second-generation immigrants could request Belgian nationality without being subject to any examination. However, it noticed that there could be some limitation to access Belgian nationality if the person had a police record. In relation to visa restrictions, the delegation stressed that Belgium was an open country, that its visa policy was part of the European policy, and that the Government had made great efforts to facilitate the process. Regarding detentions in airport transition zones, the delegation assured the Committee that there would no longer be detentions in transit areas but the establishment of specialized areas where people could be placed. Finally, the delegation answered that polygamy was not recognized under Belgian law.

In its concluding observations, the Committee 2004 General Recommendation 30, which calls State parties to adopt “all necessary measures to use non-custodial measures for asylum seekers”.

### **Travellers and Roma**

The country rapporteur Mr Kjaerum requested further information on the activities carried out by the Travellers’ Mediation Centre in the Wallonia, and the impact and consequences of the adoption of a Flemish Housing Code recognizing caravans as a form of housing, as well as the status of caravans in Brussels and Wallonia. Referring to paragraph 89 of the State report outlining a number of programmes set up on behalf of Travellers and Gypsies, Committee member Mr Peter wondered if the preparation of the programmes involved the participation of the concerned groups. Mr Diaconu wondered if the Government distinguished between Gypsies and Roma.

The delegation explained that the Government had adopted a holistic approach to meet the needs of Roma and Travellers, drawing specific policies towards the traveling population, which include regional integration centers, a social-mapping program to monitor services provided to those groups, and the setting up of more sites so as to accommodate these groups. The delegation clarified that the Travellers’ Mediation Centre was set up in 2001 and since then had raised awareness on the culture and presence of these groups. It highlighted that local authorities had regularly turned to the Centre and that the Centre worked to prevent the rise of disputes between local authorities and Travellers. Answering to the question posed by Mr Diaconu, the delegation stated that ‘Roma gypsies’ were, according to a consensus within the Council of Europe, groups coming from Central Europe, while the term Travellers referred to groups coming from Western Europe for pilgrimage or work and who lived in caravans. These include the Manush and the Sinti.

In its concluding observations, the Committee recommended that the State party strengthen measures to improve access to education of Roma children and employment opportunities of Roma and Travellers. Furthermore, it requested that the next periodic report include detailed information on the realization of social, economic and cultural rights by Roma and Travellers.

### **Access to housing**

The country rapporteur noted with dissatisfaction that the State periodic report did not elaborate on measures preventing segregation in cities. He reminded the delegation that Article 3 of the Convention obliged State parties to adopt measures so as to eradicate segregation and further invited the Government to take careful consideration of the Committee’s General Recommendation 19 on the matter.<sup>10</sup> Mr Kjaerum explained that the ‘over-representation’ of ethnic minorities in social urban housing was in many countries due to the difficulties they faced to access other sectors of the housing market. He therefore asked if the Government had carried out any studies to assess the reasons behind the concentration of minorities in this sector, and whether it had undertaken measures to eliminate *de facto* barriers for ethnic minorities to obtain housing outside the social housing sector. Finally, Mr Kjaerum said that it was alleged that housing associations had

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<sup>10</sup> General Recommendation No. 19 on Article 3, available at <http://www2.ohchr.org/english/bodies/cerd/comments.htm>

asked the Government for permission to allocate less housing to ethnic minorities given that their “over-representation” had led to locals leaving the neighbourhood. He stressed that this practice would be a clear violation of Article 5 of the Convention. Mr de Gouttes referred to allegations that in 2006 a decree was issued in the Flemish region limiting access to housing and land on the basis of language knowledge, and accordingly wondered to what extent this decree countered the 2007 anti-discrimination law.

The delegation answered that there were no limitations to the number of immigrants able to attain social housing, and that the principles applied to provide social housing were in chronological order of registration and revenues of the applicants. It added that in the Walloon region a number of actions were undertaken so as to make access to housing easier, and pointed out that the Government had set up real estate agencies to manage private housing, to re-categorize properties and make them eligible for social housing, and to assist families in need. Regarding language requirements in the Flemish region, the delegation answered that the intention was to ensure an environment where landlord and tenants could effectively communicate. It explained that the tenant did not need to be proficient in the language but was required to have the intent to learn. Furthermore, it noted that the Council of States, the highest tribunal in the country, had not considered this measure discriminatory; and that no complaint had been lodged to date. It finally said that the reaction of the French community to the measure was surprising given that they learned Flemish during primary school.

In its concluding observations, the Committee recommended that Belgium adopt effective measures so as to prevent segregation and requested that the next periodic report include detailed information on specific measures to address the problem and their outcomes.

### **Education**

In its initial statement, the delegation explained that in the Flemish community a decree on equality of opportunity was adopted in 2002 guaranteeing the right to school enrolment. The decree was linked to a reform on the financing of educational establishments and schools were given additional funds on the basis of a number of social indicators so as to prioritize access of disadvantaged groups. The French community also had a similar decree seeking to combat ghetto schools, titled Decree Arena, and adopted affirmative action to offer support to schools that receive a high number of pupils of foreign origin and of disadvantaged groups. .

Committee member Mr Avtonomov referred to paragraph 23 of the report issued by the Working Group of Experts on People of African Descent,<sup>11</sup> which stated that there were schools in Belgium in which 100% of the students were of foreign origin and from a disadvantaged background. He voiced that these were ‘ghetto schools’ and inquired of the delegation measures undertaken to overcome this situation. No further considerations were given by the delegation.

Committee member Mr de Gouttes noted with concern that most schools in Belgium had opted to ban the wearing of the veil, which had led to the concentration of Muslim students in a few schools. He questioned whether any measures were undertaken by the Government to regulate the situation. The delegation answered that in Belgium there was no direct prohibition of the wearing of the veil. It explained that prohibition was a decision left to the director of each school on the condition that the rules of procedure of the school were in line with legal provisions. Furthermore, the delegation noted that in 2007 10% of schools accepted the wearing of the veil. Reminding the delegation that the Belgian Constitution enshrines freedom of religion and provides also for the right to education, Committee member Mr Thornberry wondered how pupils wearing a veil had their right to education realized. The delegation clarified that the remaining 90% of schools did not necessarily prohibit the wearing of the veil, and highlighted that the ban was not restricted to the use of the veil but to all religious symbols. It further explained that a friendly settlement mechanism was set up and that no case had been brought to the European Court of Human Rights. Mr Thornberry continued by asking if any kind of mediation facilities were set up between the school and the community. The delegation answered that

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<sup>11</sup> E/CN.4/2006/19/Add.1, available at <http://huachen.org/english/issues/racism/groups/african/visits.htm>

people who alleged to be affected by the prohibition of the wearing of the veil could contact the Center for Equal Opportunities and Action to Combat Racism, which would try to find a friendly settlement between the family and the school. If the family insisted on the wearing of the veil, it could seek legal proceedings. However, in general families preferred to find another school.

### Labour market

In its initial presentation, the delegation stated that the federal and regional Governments had taken action to combat discrimination against people of foreign origin in the labour market and to enhance diversity. The Government was targeting companies with awareness raising campaigns and seminars. An Equality and Diversity Label was also established to promote diversity and distinguish pro-diversity companies. In the Walloon region, a number of initiatives were undertaken to identify discriminatory practices in the labour market with employers, syndicates, migrants associations and regional centres, and seek strategies to improve integration. In the Flemish region, companies and employers organizations were working together to improve training of employees.

Committee member Mr Kemal referred to a study carried out by the European Monitoring Center of Racism and Xenophobia, which noted that in Belgium discrimination was mostly felt in the labour market. He noted that Belgium had a zero growth of population and wondered if the Government's policy was to encourage or discourage immigration. He reminded the delegation that immigrants contributed to the economy and that it should be of the interest of the Government to highlight this contribution as a best way to oppose racist propaganda.

The delegation acknowledged the high rate of discrimination in the labour market and explained that at the federal and regional levels there had been a structuring of policies so as to combat discrimination and encourage diversity policies. The Government shed light on a number of efforts taken at federal and regional levels, including financial support for diversity initiatives, integration of minorities through training and assistance to find a job, and a diversity prize awarded for best practices. In the Brussels region employers have been encouraged to sign diversity charters and diversity consultants were funded to monitor the implementation of initiatives.

### Other issues

The country rapporteur, Mr Kjaeum, commended Belgium for giving non-EU **foreigners the right to vote** in local elections, but wondered why they had to make a declaration promising to “respect the Constitution, Belgian law and the European Convention on Human Rights”. He wanted to know the consequences in case the promise was later breached and requested statistics on the actual use by foreigners of this voting right. He also asked why foreigners could not run for election. The delegation voiced that Belgium's legislation regarding electoral rights was advanced in comparison with other European countries and added that the declaration was part of a commitment. It noted however that the registration of foreigners to vote was quite low, with higher registration in the Walloon region, and acknowledged the need to raise awareness of this right. Furthermore, it stated that the eligibility of non-Europeans to run for local elections was one step to be taken forward.

The country rapporteur Mr Kjaerum requested further clarifications on the new provisions to punish **trafficking**<sup>12</sup> and the extent to which the new provisions had been used. He also queried what had been done to secure uniform treatment of victims of trafficking and to provide necessary training for stakeholders. The delegation answered that 2005 anti-trafficking legislation established provisions determining aggravating circumstances of trafficking. Therefore, trafficking of minors, illegal migrants or other groups in vulnerable situations was punished more severely. It noted that between 2005 and 2007 there was very little reference to

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<sup>12</sup> Paragraphs 155 and 156 of the State periodic report mentions new provisions to punish trafficking.

these legal innovations, but that since 2008 there had been increasing jurisprudence on the matter. It further informed that the Government had provided training to relevant stakeholders, particularly the police. In its concluding observations, the Committee recommended that the State party strengthen measures to combat human trafficking and that the next periodic report include statistical information on the matter.

The country rapporteur Mr Kjaerum asked the delegation how the Government supported small and **struggling languages** such as German, Walloon, Picard, Champenois and Lorrain. He and Mr Diaconu also wondered why Belgium had not ratified the European Convention for the Protection of National Minorities. The Delegation answered that language education was given prominence and that second and third language teaching was consistently provided throughout the country. It noted that language diversity was part of its identity and a major economic and cultural asset for the country.

## Conclusion

In his concluding remarks, country rapporteur Mr Kjaerum thanked the delegation for the open and frank dialogue, and expressed satisfaction with the its recognition of the need for a new and proactive approach towards integration. He further highlighted that mediation was a more fruitful approach and thanked the delegation for clarifications regarding the political situation in Belgium. The head of the delegation thanked the Committee for its remarks and noted that their experience and knowledge made the exchange interesting.

A number of UN treaty bodies made previous concluding recommendations and observations on the same issues addressed by the Committee. The Committee on Economic, Social and Cultural Rights recommended that the State party strengthen legal and institutional mechanisms aimed at combating discrimination and further requested that the next periodic report include detailed information on outcomes of initiatives and data on the number of prosecutions and convictions for crimes motivated by ethnicity.<sup>13</sup> The Human Rights Committee expressed concern with the persistence of allegations of police violence, often accompanied by racial discrimination, and accordingly urged the State party to step up on its efforts to conduct more thorough inquiries.<sup>14</sup> In addition, it urged Belgium to take all necessary steps to protect communities resident in Belgium against racist, xenophobic, and-Semitic and anti-Muslim acts, and recommended that the State party stop holding foreigners in airport transit zones. The Committee against Torture expressed concern with the excessive use of force during public demonstrations and expulsions of foreigners, and urged the State party to ensure that the guidelines on the use of force during these incidents are fully in keeping with the requirements of the Convention.<sup>15</sup>

The Committee on the Elimination of Racial Discrimination requested that Belgium submit its next report on the 6 September 2012.

*Last revised and updated: 30 May 2008.*

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<sup>13</sup> E/C.12/BEL/CO/3, available at [www.ohchr.org/EN/Countries/ENACARRegion/Pages/BEIndex.aspx](http://www.ohchr.org/EN/Countries/ENACARRegion/Pages/BEIndex.aspx).

<sup>14</sup> CCPR/CO/81/BEL, available at [www.ohchr.org/EN/Countries/ENACARRegion/Pages/BEIndex.aspx](http://www.ohchr.org/EN/Countries/ENACARRegion/Pages/BEIndex.aspx).

<sup>15</sup> CAT/C/CR/30/6, available at [www.ohchr.org/EN/Countries/ENACARRegion/Pages/BEIndex.aspx](http://www.ohchr.org/EN/Countries/ENACARRegion/Pages/BEIndex.aspx).

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