BELGIUM

CCPR A/43/40 (1988)

461. The Committee considered the initial report of Belgium (CCPR/C/31/Add.3) at its 815th, 816th, 821st and 822nd meetings, held on 12 and 15 July 1988 (CCPR/C/SR.815 and 816, 821 and 822).

462. The report was introduced by the representative of the State party who, underscoring the long national tradition of respect for human rights, stated that an extensive campaign to disseminate the text of the Covenant in several languages had been conducted prior to its ratification by Belgium on the occasion of the thirtieth anniversary of the Universal Declaration of Human Rights. That tradition had been further strengthened by the increasingly important role played by the right of individual recourse to the organs set up by the European Convention on Human Rights. He emphasized that his Government intended to ratify the Optional Protocol to the International Covenant on Civil and Political Rights and make the declaration provided for in article 14 of the International Convention on the Elimination of All Forms of Racial Discrimination.

463. The representative then referred to certain legislation in force when the report had been drafted. He described the relevant provisions relating to compensation for unlawful arrest or detention, religious freedom and the protection of ideological and philosophical minorities. In connection with the latter, he drew particular attention to the most recent report of the National Commission of the Cultural Pact containing statistical information on the complaints lodged concerning violations of the law known s the "Cultural Pact".

464. With regard to new developments which had occurred since the report had been drafted, the representative outlined the reforms being undertaken at the level of each community in respect of the legal protection of young people. Similarly, he drew attention to the Act of 14 July 1987 relating to the procedure for recognition of the status of political refugees which, inter alia, had extended the scope of activities of the General Commission on Refugees and Stateless Persons. Lastly, he referred to the reform of the law on filiation, the main object of which was to abolish any hierarchy and any discrimination among filiations, and which had been carried out by adoption of the Act of 31 March 1987.

465. The members of the Committee welcomed the report, which contained much information and had been drafted strictly in conformity with the Committee's general guidelines on the form and content of reports. They also expressed particular satisfaction at the information furnished by the representative of Belgium in his introductory statement. They considered, however, that the report could have laid greater stress on the factors and, possibly, the difficulties affecting the implementation of the Covenant and particularly those stemming from the country's multi-ethnic and multi-cultural character. They also wished to have additional information on any difficulties that might have been experienced by Belgium in respect of its obligation to submit reports under the various international human rights instruments ratified by it, and more particularly the Covenant, as well as on the way their preparation was organized in Belgium. Finally, members pointed out that the general comments adopted by the Committee had not given rise to sufficient observations in the

report.

466. Referring to article 1 of the Covenant, members wished to have information on Belgium's position in respect of apartheid and the right of the peoples of Namibia and Palestine to self-determination. In that regard it was asked whether economic sanctions had been adopted against the South African apartheid régime.

467. With regard to article 2 of the Covenant, members of the Committee wished to receive additional information on the prohibition of discrimination on grounds of race and language. In particular, they inquired about the respective spheres of competence of the communities and regions in Belgium and the exact status, composition and powers of the National Commission of the Cultural Pact. Moreover, noting that Belgium had many foreigners on its territory, particularly migrant workers, they inquired to what extent the principle of equality before the law, defined in article 26 of the Covenant, was guaranteed to them and what the exceptional cases, referred to in article 128 of the Constitution were, in which they did not enjoy the same rights as nationals. Further, members wondered whether the distinction drawn between foreign minors and Belgian minors in the implementation of the law providing for the social and judicial protection of young persons might not lead to discrimination. Lastly, clarification was sought as to the representation of the various ideological and philosophical trends in the composition of the management or administration of cultural institutions, services and facilities.

468. The members of the Committee also wished to have more detailed information on the legal status of the international instruments, relating to human rights, and more especially the Covenant, in Belgian internal law. In particular, they inquired about the place occupied by the Covenant within the Belgian legal order and asked whether there was a system to monitor the constitutionality of laws and which authorities were competent to interpret the provisions of the Covenant and settle any conflicts between them and the provisions of internal law. Noting a divergence of opinion between the Court of Cassation, on the one hand, and the Government and the Council of State, on the other, they inquired whether the provisions of the Covenant were directly applicable. Moreover, members indicated their concern about the apparent difference in status between the Covenant and the European Convention on Human Rights, and requested additional information on the reservation deposited at the time of ratification, whereby articles 19, 21, and 22 of the Covenant were applied in conformity with articles 10 and 11 of the European Convention. In addition, it was asked what the limitations on the competence of the courts were in cases of a political nature, whether the special régime for ministers mentioned in articles 90 and 134 of the Constitution applied only to questions of impeachment, or whether it afforded wider protection for ministers against legal proceedings, what the dividing line was between civil and political rights and whether there were any administrative decisions which could not be contested before a court. Lastly, it was asked whether measures had been taken to give wide publicity in all official languages to the provisions of the Covenant in schools and universities and to the police.

469. With reference to article 3 of the Covenant, members of the Committee wished to have statistical information on the proportion of women in the main institutions of the State. Questions were also raised regarding the scope of application of the limitation provided in respect of employment in educational establishments and the practical consequences of the withdrawal by Belgium of one of its reservations to the Convention on the Political Rights of Women. It was also

asked whether an amendment of the constitutional provision restricting the exercise of royal powers to men, which had had led Belgium to enter a reservation to that provision of the Covenant, was envisaged.

470. With regard to article 4 of the Covenant, members of the Committee inquired why, in time of war, aliens could be removed from certain places even if they were not nationals of an enemy country.

471. With reference to article 6 of the Covenant, members of the Committee wished to know why Belgian legislation, under which a minor over the age of 16 could incur the death penalty, had not been brought into line with the Covenant and how often the death penalty provided for in the Military Penal Code had been carried out. Observing that the death penalty was in fact not applied, a member asked why capital punishment had not been abolished. Referring to general comments Nos. 6 (16) and 14 (23) of the Committee, members also wished to receive additional information regarding the measures taken by the Government in order to reduce infant mortality, increase life expectancy and combat malnutrition and epidemics.

472. In connection with articles 7 and 10 of the Covenant, members of the Committee asked what remedies were available to persons claiming that they were tortured, whether provision was made in Belgian legislation to ensure that any statement obtained under torture was not used as evidence in any proceedings and how many police officers, prison warders and other public officials had been charged and convicted for the physical torture of a person. More detailed information was also requested on the treatment of transsexuals, the implicit permission for organ transplants given by the donor or his family and the situation of the patient in the context of psychiatric treatment and medical experiments. It was also asked what the functions and composition of the administrative commissions attached to each prison establishment were, what the conditions of detention for minors were and, in particular, whether they were held separately from adults, why there was no total separation between unconvicted persons and convicted persons, whether Belgium had problems of over-population in prisons, how soon the family of the accused was informed in case of a prohibition on communication and whether the conditions governing life imprisonment varied depending on whether it was handed down directly by the courts or resulted from the commutation of the death penalty handed down by a civil or military court.

473. With regard to article 9 of the covenant, additional information was requested on the recourses available to persons deprived of their freedom, the system of release on security, particularly in the case of security paid by a third person, the maximum duration of pre-trial detention, the average time-span between the arrest of an accused person and his trial at first instance and the reasons why a person committed for trial might not communicate with his counsel before the first hearing. Lastly, further information was sought on the other types of deprivation of liberty mentioned in the report such as administrative detention or custody.

474. With regard to article 11 of the Covenant, additional information was requested on imprisonment for debt under Belgian law.

475. With reference to article 12 of the Covenant, members of the Committee asked what the situation was in respect of the status of aliens in Belgium and what problems and difficulties had

arisen in practice. In particular, further information was sough as to whether it was possible to derogate from the right of an alien freely to choose his residence and it was asked whether any such provisions fell within the framework of the exceptions listed in article 12, paragraph 3.

476. With regard to article 13 of the Covenant, concern was expressed over the recent expulsion of foreigners of Asian origin and, in that connection, it was asked what provisions had been made for appeal against such decisions.

477. With respect to article 14 of the Covenant, members of the Committee wished to secure more information about the representation of the three Belgian linguistic communities in the Court of Cassation, the organization of the bar, the system of legal aid, the circumstances and conditions in which a judge might be dismissed or suspended, the system of remuneration of judges, the procedure applicable to minors and, particularly, the period of time during which provisional measures might be taken before the hearing by the children's judge. Lastly, one member pointed out that the term "proof of innocence" used in the Act of 20 April 1974 seemed to be incompatible with the principle of presumption of innocence provided for under the Covenant.

478. Regarding article 16 of the Covenant, further information was sought concerning the procedure of "judicial interdiction" mentioned in the report.

479. With regard to article 17 of the Covenant, the members pointed out that the Committee had adopted general comment No. 16 (32) at its thirty-second session. In that connection, they asked what interpretation was given by Belgium to the terms "family" and "domicile", what Belgium's practice was in respect of the automatic processing of personal data and what rights individuals had in that regard, whether individual petitions had been brought and what their consequences had been. Additional information was also requested on the suppression of telegraph and telephone communications and on the difference of treatment that appeared to exist between Belgian minors and foreign minors in the protection of their private life.

480. In relation to article 18 of the Covenant, members wished to receive additional information concerning the religious denominations recognized in Belgium, the rights enjoyed by non-recognized denominations and the criterion of national interest on which the granting of legal recognition was based. One member also inquired about the situation of conscientious objectors with regard to access to civil service posts and asked whether compulsory voting was compatible with article 18, paragraph 2, of the Covenant.

481. With reference to article 19 of the Covenant, some members asked whether Belgium had enacted legislation concerning the dissemination of information by the authorities.

482. With reference to articles 21 and 22 of the Covenant, some members asked for further particulars concerning the restrictions applied to public open-air meetings. They also asked whether action had been taken to give effect to the recommendations of the International Labour Organization concerning the settlement of industrial disputes, and whether military personnel alone were denied the right to strike.

483. With reference to article 23 of the Covenant, it was asked whether the amendments made in

the legislation concerning descents had abolished all difference of treatment between children born out of wedlock and those born in wedlock. It was wondered why active members of the police force could not contract marriage unless previously authorized to do so and whether there were any other exceptions to article 23 of the Covenant, and it was asked what the Belgian view of the best interests of the child was, especially where they might be held to conflict with the interests of a parent.

484. With regard to article 25 of the Covenant, it was asked to what extent aliens, and more specifically migrant workers, had an opportunity of participating in public life. So far as compulsory voting was concerned further particulars were requested concerning penalties applicable to citizens who did not vote.

485. With reference to article 27 of the Covenant, the members regretted that the subject had not been elaborated more fully in Belgium's report. In that respect they asked, inter alia, for particulars concerning the enjoyment by minorities of the rights guaranteed by the Covenant, the effect of linguistic differences on civil and political rights, and the meaning of the terms "ideological and philosophical minorities" mentioned in article 6 (b) of the Constitution.

486. In reply to questions asked by members of the Committee concerning difficulties encountered by Belgium in preparing its initial report, the representative of the State party explained that changes had occurred in some of the services concerned and that in addition, because the task was a novel one, the officials responsible had had to change their methods of work. Furthermore, the report had been drafted in co-operation with various ministerial departments and services, including those responsible for justice and foreign affairs, with the consequence that the process had taken quite a long time. Despite the difficulties it had had to contend with, the Belgian Government stressed that the system of submitting reports had the merit of encouraging the States party to carry out a kind of examination of conscience demanded by the international community. Nevertheless, the Government hoped that the forthcoming meetings of presiding officers of the bodies set up under human rights instruments would consider in detail measures that might be adopted in order to improve in certain respects the procedure of preparation and submission of reports by State authorities.

487. Referring to the questions concerning his country's position with respect to apartheid and peoples' rights to self-determination, the representative stressed that the apartheid policy in South Africa was in utter conflict with the most fundamental human rights. Nevertheless, it was Belgium's consistent policy to decline to apply comprehensive economic sanctions; it preferred to use, as a political signal, any means of pressure at the disposal of the international community. Regarding the application of the sanctions ordered by the United Nations, he said that Belgium's position might change if South Africa failed to heed the appeals addressed to it. So far as the Namibian and Palestinian peoples were concerned, he said that Belgium's position was based on Security Council resolutions 435 (1978) and on the Venice Declaration of the States members of the European Community, respectively.

488. Regarding the problems connected with discrimination based on race or language, he referred, first, to the various reports submitted since 1978 to the Committee on the Elimination of Racial Discrimination and explained the provisions of the 1981 Act concerning the prevention and punishment of racist and xenophobic agitation and utterances. With regard to the language problem

in Belgium, he drew attention to the three stages in the process of institutional reform. The first had been the 1970 Constitution which had recognized the existence of cultural communities, language groups and economic regions: French, Dutch and German regions and a bilingual region for Brussels, together with three socio-economic regions - Walloon, Flemish and for Brussels - had thus been created. The second stage had been the 1980 constitutional reform which had extended the powers of the communities and established a court of arbitration to settle conflicts between national laws and community or regional decrees. Following a prolonged political crisis, a new adjustment was under discussion furthering the above-mentioned trends. Lastly, with regard to the special status of the eight communes along the language frontier between the Flemish and Walloon communities, he drew attention to the significant differences in the concepts of law of the Dutch-speaking and French-speaking communities.

489. In reply to other questions concerning equality before the law and non-discrimination, he explained that under article 128 of the Constitution there were certain exceptions to the equality of treatment of aliens and nationals. For example, only certain categories of alien were eligible for the benefit of judicial assistance, and only non-profit-making associations, at least three fifths of whose members were Belgians or aliens entered in the population register and living in the territory, could claim their rights and obligations with respect to third parties. Similarly, certain restrictions were applicable with respect to deprivation of liberty and the right to vote and to be eligible for office. He added that there was a possibility of discrimination between foreign minors and Belgian minors, depending on the attitude taken by the courts. Some judges held that they had jurisdiction with respect to aliens under the age of 21 years by reason of their personal status, whereas others applied the legislation concerning the protection of young persons. This discrimination should however disappear, for parliament was considering a bill that would fix the age of majority at 18 years.

490. In reply to a number of questions concerning the status of the Covenant in Belgian law, he explained that traditionally Belgian doctrine was divided into two opposing schools of thought, known respectively as the dualist and the monist school. In order that it should be operative in domestic law a treaty must first have been "received" according to a specific procedure and must have been ratified by the King. Having been ratified and having been published in the Moniteur belge, the Covenant had accordingly become part of Belgian domestic law. Nevertheless, in order to produce its effects in internal law a treaty must furthermore have a legal object and its provisions must be directly applicable. Since the Covenant did not contain any provision expressly specifying that last point, it was for the court to determine whether a rule of the Covenant produced direct effects for the benefit of individuals. It was in keeping with that attitude that on 17 January 1984 the Court of Cassation had ruled that article 9, paragraph 2, of the Covenant was directly applicable - a ruling conflicting with the view of the Council of State and the Government of the time. Furthermore, an international norm producing direct effects prevailed over rules of domestic law, even those enacted subsequently. Referring to the status of the Covenant and of the European Convention, he explained that neither of the two instruments was subordinate to the other, even though the public and practitioners of law were more aware of the European instrument because it had been ratified earlier and provided for different machinery.

491. In reply to other questions in connection with article 2 of the Covenant, he gave an explanation concerning the legislative provisions which made an exception regarding the institution of criminal proceedings against ministers. The object of those provisions was to avoid a situation in which

ministers might be exposed to the risk of large numbers of judicial proceedings by reason of the exercise of their functions, and to leave it to the highest court of the land to deal with problems requiring careful consideration. The provisions had only rarely been applied. He added that penalties other than removal from office were prescribed by the Penal Code, that the demarcation between civil rights and political rights had become very complex, inasmuch as the citizen possessed more and more political rights as a beneficiary of services provided by the State, that the Council of State issued its rulings by means of orders on applications to set aside acts under regulations by the administrative authorities, that the Belgian Government had taken all necessary action to publicize information relating to the Covenant, and that human rights were given great prominence in the programmes of training of pupils, students, the military, the gendarmerie and the police.

492. In reply to questions in connection with article 3 of the Covenant, he provided a large number of statistical data showing the increase in the number of women holding responsible posts in the various agencies of the State. Regarding State establishments of supervised education and observation centres, he said that the supervisory personnel had to be of the same sex as the minors entrusted to them. With regard to the withdrawal of a reservation made by Belgium to the Convention on the Political Rights of Women, he said that, under the International Labour Conventions, special provisions might still be prescribed, according to the sex of the person concerned, regarding access to certain jobs, in the light of the working conditions. Lastly, referring to the prevision debarring women from acceding to the throne, he explained that that was one of the provisions of the Constitution proposed to be amended and that for historic reasons questions relating to the royal family had always been very delicate.

493. With reference to article 4 of the Covenant, he explained that the statutory provisions concerning the removal of aliens in time of war dated from the Second World War; those provisions were to be reviewed.

494. In reply to questions asked by members concerning article 6 of the Covenant, he explained that, as the death penalty was no longer enforced in Belgium, it had never been envisaged to repeal the provisions under which a minor over the age of 16 years might be liable to that penalty. Besides, in time of peace the death penalty was invariably commuted, whether the person concerned was a member of the armed forces or a civilian, into imprisonment for life. The possible ratification of Protocol No. 7 to the European Convention on Human Rights concerning the abolition of the death penalty was under consideration. That was, however, a delicate question since the authorities were fearful of reviving a dispute which was no longer topical and which might have unforeseen repercussions.

495. In reply to questions asked by members in connection with articles 7 and 10 of the Covenant, he explained that, regarding confessions that might have been extracted under torture, the person concerned could withdraw the confession at any time and that the judge evaluated the situation as a whole according to his conscience. So far as the authorities were aware, only one or two cases of torture, in the mitigated meaning of the term, were reported in any one year; the persons responsible had been reprimanded or suspended from office or dismissed. He added some particulars concerning the treatment of transsexuals and the consequential change in personal status. An Act dated 13 June 1986 concerning organ transplants had entered into force; it stated that, in the event of the removal of an organ from a living person, the knowing consent of the donor was required;

whereas, in the case of the removal of an organ from a corpse, consent was presumed, since transplants were prohibited only in cases where there was an objection in writing. On the protection of persons suffering from mental diseases, he said that such a person, with respect to whom a judicial decision had been made and who had accordingly been committed to the psychiatric section of a prison establishment, was free to apply for discharge on the basis of a medical report by a doctor of his choice and was free to use any legal remedies to produce evidence of his state of health. Furthermore, a psychiatrist could recommend that a patient should be treated outside a psychiatric establishment if the family or friends of the patient provided support. He added that, so far as medical experiments were concerned, the knowing consent of the person concerned was likewise required, and in any case such experiments on prisoners were prohibited.

496. In reply to other questions asked by members concerning conditions of detention, he explained that the administrative committee attached to every penitentiary establishment included among its members - depending on the size of the establishment - between three and nine members appointed for six years by the Minister of Justice; the Procureur du Roi and the burgomaster were ex officio members of such Committees. They communicated to the Minister any relevant information and proposals and performed the function of supervising the conditions of detention. In addition, in pursuance of a decision by the European court of Human Rights, the legislation concerning the detention of minors would be amended. In general it was the object of the authorities to reduce the prison population through early discharge, the possible abolition of short-term sentences, an adjustment of the terms of imprisonment, and recourse to alternative penalties. An order banning all communication could not be made by a judge for a period exceeding three days, such period not being renewable; such an order applied to all persons concerned, including the prisoner's lawyer, and the prisoner and his family were informed accordingly. He added that, in cases where the death penalty was commuted, the legal régime applied, including the rules governing conditional release, was the same as that applicable to a sentence of life imprisonment.

497. With reference to article 9 of the Covenant, he stated that the court of summary jurisdiction was henceforth empowered to determine whether a particular case of detention contravened the law. As a consequence, the time-limits had become very short, since the summary jurisdiction procedure was extremely rapid. Bail required for the purpose of obtaining a person's release could be posted by a third party. There was no specific rule concerning the duration of detention pending trial; such detention might continue as long as there were grounds for it in the light of the public interest and security. Nevertheless, the Government intended to review the legislation concerning the grounds for detention pending trial as appraised by the court and the rules concerning the duration of such detention. Any person detained was entitled to contact a lawyer immediately after the first hearing by the court, which had to take place within 24 hours. So far as other kinds of deprivation of liberty were concerned, the representative explained that an Act of 11 February 1988 provided additional safeguards with respect to custody or administrative detention.

498. In reply to questions in connection with article 12 of the Covenant, he explained that a Royal Order dated 7 May 1985 had forbidden aliens to settle in six communes of the Brussels urban area, the reasons for the ban including financial constraints, the obsolete state of the dwellings and the lack of infrastructure. The answer to the question whether the enactment, pursuant to which exceptions could be made to the principle of an alien's freedom to choose his residence, was compatible with the relevant provisions of the Covenant depended on how the expression "public

interest" and "order public" used in the relevant provision were interpreted.

499. With reference to article 14 of the Covenant, he explained that the Court of Cassation was composed of 26 judges, of whom 13 were Dutch-speaking and 13 French-speaking. With regard to the independence of the judiciary, he stated that the Government had no means of exerting pressure on judges, that judges were appointed for life, that they could not be moved without their consent, and that their salaries were fixed by law. Belgium law fully respected the principles that an accused was invariably presumed to be innocent and that the onus of proof fell on the prosecution.

500. Commenting on questions raised under article 17 of the Covenant, the representative stated that wire-tapping was formally prohibited, that in a court of law a judge could obtain information on the times, the names of callers and subscribers and the number of calls, but that the content of telephone conversations remained confidential, and that the national register contained data such as name, date of birth, place of birth and sex.

501. In reply to question asked by members of the Committee concerning article 18 of the Covenant, he stated that the six religions recognized were the Catholic, Protestant, Israelite, Anglican, Islamic and Orthodox religions, the decisive test being the number of persons practicing the religion in question in Belgium. The sole consequence of the statutory recognition of a religion was that the State paid the salaries of the ministers of religion and established the appropriate management bodies; the State had no right to intervene in other matters and all other religions could be freely practised and professed. He added that conscientious objectors who respected the obligations implicit in their status were deemed to fulfil the statutory conditions concerning access to the public service. So far as compulsory voting was concerned, he stated that that requirement was not incompatible with paragraph 2 of the article in question, for it was open to the electors at any time to deposit a blank or void ballot paper.

502. With reference to article 19 of the Covenant, he stated that, despite differences of opinion on the subject, the Belgian Government was planning to make provision in the Constitution for the principle that administrative actions must be public and substantiated by reasons, and to improve the relationship between members of the public and the authorities.

503. Regarding questions raised under articles 21 and 22 of the Covenant, the representative stated that no preference was given to the negotiation procedure rather than the dialogue procedure in dealings between the authorities and trade-union organizations. Although in theory the law forbade Belgian civil servants from striking, in actual practice they had resorted to strike.

504. Replying to questions asked under article 23 of the Covenant, the representative said that in the case of divorce the interests of the children took precedence over those of the parents. In addition, he explained that it was essential that the spouses of police officers should be above suspicion; therefore, the marriage of a member of the police force had to be authorized by the commanding officer.

505. With respect to article 25 of the Covenant, he stated that the penalties applicable to persons who did not appear at the voting stations were very mild and rarely enforced.

506. The members of the Committee warmly thanked the representative of Belgium for having answered most of the questions in such detail; it was noted, however, that some of those questions had not been touched upon or called for a more specific answer. They expressed the hope that the second periodic report would contain the necessary information and clarifications.

507. The Chairman expressed his thanks to the delegation of Belgium both for the information provided and for the clear and objective answers given to questions asked by members.

CCPR A/47/40 (1992)

395. The Committee considered the second periodic report of Belgium (CCPR/C/57/Add.3) at its 1142nd and 1143rd meetings, held on 7 April 1992 (CCPR/C/SR. 1142 and SR. 1143). (For the composition of the delegation, see annex VIII).

396. The report was introduced by the representative of the State party, who noted that the Covenant had become part of Belgium's internal law after it had been approved by the Parliament in 1981 and ratified by the Crown in 1983. Under Belgian law, it was for a court to decide whether a treaty provision was directly applicable. In 1971 the Court of Cassation of Belgium had affirmed the primacy of the provisions of international treaties over national laws. A Belgian court might therefore apply national provisions only if they were compatible with those of international treaties directly applicable in internal law. In 1984 the Court of Cassation of Belgium had also affirmed that article 9, paragraph 2, of the Covenant had direct effects in internal law for individuals and, since then, the Court had confirmed such direct applicability in the case of other provisions of the Covenant.

Constitutional and legal framework within which the Covenant is implemented

397. With reference to that issue, members of the Committee wished to know what the status was of provisions of the Covenant that were not directly applicable and those, other than article 9, paragraph 2, of the Covenant, which had been interpreted by the Court to be directly applicable; to what extent the Covenant was applicable in the legislation of the Flemish, French and German communities; and what difficulties had affected the implementation of the institutional reforms.

398. Members also wished to know whether the Belgian Government, when drawing up new legal provisions, considered itself bound by the Covenant or by the European Convention on Human Rights; whether the Court of Arbitration was competent to apply the Covenant directly; whether it might be more appropriate for the administrative and other executive authorities to decide on the direct applicability of a provision of an international treaty, particularly where its interpretation was not controversial; what criteria were used in establishing international treaties in the hierarchy of internal law; whether an action invoking a provision of the Covenant could be brought before an ordinary court; how the distinction drawn by the Belgian Constitution between civil and political rights was determined in practice; how the rights of linguistic minorities were protected; and how their "linguistic options" in administrative dealings was exercised; whether there was a specific reason for the Belgian Constitution to stipulate that all powers stemmed "from the nation" rather than "from the people"; why Belgium had expressed reservations to articles of the Covenant that were almost identical to the equivalent provisions of the European Convention on Human Rights; and whether the State party intended to accede to the Optional Protocol.

399. In his response to the questions raised by members of the Committee, the representative of the State party said that, in addition to article 9 (2) of the Covenant, articles 9 (3), 14 (1) and (2) and 17 had been declared by the Court of Cassation to be directly applicable. Provisions of the Covenant that were not directly applicable did not confer any right on individuals unless their principles were reflected in domestic legislation. Provisions of the Covenant that were directly applicable took

precedence not only over national legislation but also over the enactments of the communes and regions. There were four major difficulties impeding the application of the Covenant, namely, the centrifugal nature of Belgian federalism; the country's bipolar structure; different interpretations of the language law in the north and south; and the need to strike a balance, when allocating resources, between the requirements of national solidarity and those of regional and communal autonomy.

400. The representative further explained that there was basically no difference between the status of the Covenant and that of the European Convention on Human Rights in Belgium's legal system, except in the system for monitoring compliance with those instruments. Monitoring compliance with the Covenant, done through the Committee, was of a political nature, while control of the European Convention was carried out through the European Commission of Human Rights. The stringent procedures of the European Court of Human Rights, which had the power to require Belgium to change any provision of its legislation that was inconsistent with the Convention, had led Belgium to give particular attention to the Convention.

401. The Belgian legislature acknowledged its obligation under article 2, paragraph 2, of the Covenant to adapt internal legislation to the requirements of international law. Where that had not been done, an international provision could have direct effects in domestic law when it was clear and comprehensive, when it required Belgium either to refrain from an action or to act in a specific manner, and when it could be invoked as a source of law by individuals without the need for any internal legislation for the purpose of implementation. The court was responsible for determining whether a provision had been inadequately incorporated into the law and whether the international provision was clear enough to have direct effects. Any public authority, including the Department of Foreign Affairs, could express its views as to whether a provision had direct effects, but, in the final analysis, it was up to the courts to determine the provision's applicability.

402. Regarding the distinction, made in the Belgian Constitution, between civil and political rights, the representative said the current constitutional reform process aimed, inter alia, at simplifying that complicated issue. The best criterion for determining the nature of a right was the need for the legislature to refer it either to an administrative or an ordinary court. The German community had its own administration and government. The principle of territorial monolingulism required that residents of Flanders speak Flemish, and that residents of Wallonia speak French. In 27 border communes, known as "linguistic option" communes, people had the right to services in a language other than the official language of the commune. Dutch speakers represented a linguistic majority of 5.7 million, compared with 4 million French speakers.

403. Concerning Belgium's reservations to articles 19, 21 and 22 of the Covenant, the representative explained that articles 10 and 11 of the European Convention on Human Rights accorded greater rights of exception than those in the Covenant and Belgium had therefore decided to refer to the more explicit rights of exception in the European Convention. The procedure to ratify the Optional Protocol had been initiated and it was hoped that the Protocol would be ratified before Belgium's next report was considered by the Committee.

Non-discrimination and equality of the sexes

404. Regarding those issues, members wished to know what inequalities still limited opportunities available to women; what measures had been taken to resolve those inequalities; what the restrictions were on the rights of aliens and compared with those of citizens; what problems, if any, had occurred because of migrant workers; why the Belgian Constitution, in referring to discrimination, did not discuss sex, race, color or religion; how minorities were treated in law and in practice; what the "alarm-bell procedures" were; what the basis was for categorizing judges as Dutch-speaking or French-speaking; why legislation had been enacted that discriminated against foreigners because of their nationality; why aliens were obliged to exercise "political discretion"; whether men and women had equal rights regarding their children's citizenship; and how prostitution was viewed.

405. In his response, the representative of the State party said that one fifth of the ministers in the current Government were women. Nevertheless, there were still inequalities in such areas as employment, salaries, training and promotion, as well as working conditions. Legislation and other measures, including equal opportunity programmes, had been adopted to promote equal opportunity for men and women in both the public and the private sectors. Except for rare cases established by law, foreigners enjoyed the same individual freedoms and civil rights guaranteed under the Constitution as Belgian citizens. However, there were restrictions on political activities by foreigners where such activities might pose a threat to public order or national security. The King was authorized, in the public interest, to prohibit foreigners from living in certain communes. While foreigners were not eligible to vote or to stand for election, it was intended to amend the Constitution to enable European Community citizens residing in Belgium to vote in local and European elections. A Royal Commission on Immigration Policy had been established in 1989 to investigate the problems of migrant workers, to identify appropriate measures to promote mutual acceptance between immigrants and indigenous communities and to create a harmonious multicultural society. In its first two reports the Royal Commission had proposed a wide range of measures, including granting Belgian nationality, by applying the principle of jus soli, to second-generation immigrants whose parents had been legal residents in Belgium for more than 10 years.

406. Regarding minorities and intercommunal cooperation, the representative said there were legal and constitutional mechanisms to foster cooperation between communities and regions, as well as to protect minority languages in various regions. In order to ensure linguistic equality among judges, the language in which they earned their diplomas determined the linguistic group to which they belonged.

407. Since the Covenant expressly prohibited discrimination on specific grounds, a prohibition that was implicit in Belgian law, there was no need to amend the Constitution, which addressed the question of the equality of all citizens only in general terms. The Constitution allowed the three communities to conclude treaties independently in areas of their own competence, such as cultural exchange or education, but the question of whether economic and social regions had such competence was currently under debate within the European Community. Prostitution was considered a legitimate occupation when it was practised by women who were properly inoculated and were of age. However, it was felt that the State should discourage the practice, and special measures would be taken to deal with the problem of trafficking in women and prostitution, to which immigrant women were particularly vulnerable.

Right to life, liberty and security of the person and treatment of prisoners and other detainees

408. In connection with those issues, members wished to be informed about the current situation in respect of the death penalty and the ratification of the Second Optional Protocol; rules and regulations governing the use of firearms by the police and security forces; details concerning the Protection of Young Persons Act 1965; detention in institutions other than prisons and for reasons other than crimes; the maximum length of pretrial detention; remedies available to persons claiming wrongful detention and their effectiveness; measures to prevent cruel, inhuman or degrading treatment of prisoners and detainees; procedure for the review of prison conditions; and compliance with United Nations Standard Minimum Rules for the Treatment of Prisoners and the availability of relevant regulations and directives to prisoners in all official languages. In addition, members wished to know whether the Government was addressing the affirmative aspects of the right to life, such as the right to health, the elimination of epidemics and pollution-related issues; what was Belgium's position regarding organ transplants from aborted foetuses; whether detainees had the right to ask for a lawyer as soon as they were arrested; whether medical examinations were carried out by independent doctors; how solitary confinement was practised; and whether those held in transit zones had the right to appeal their detention, as provided for under article 9, paragraph 4, of the Covenant.

409. In his reply, the representative said that a bill had been reintroduced before the legislature expressly to abolish the death penalty, except for the most serious military crimes in time of war. A law was also being drafted to adopt the Second Optional Protocol to the Covenant and the Sixth Protocol to the European Convention On Human Rights. The use of firearms was governed by law, with absolute necessity being the basic principle governing any use of firearms. A bill had been introduced in June 1991 to coordinate the functions of the various police forces and to reform existing laws by providing uniform regulations on the use of force and firearms. A bill proposing reforms in the Protection of Young Persons Act of 1965 had been drawn up including a measure restricting the application of the Act to minors over 14 years of age charged with a crime punishable by one year's imprisonment and providing for a hearing by a judge for such minors. A new law on the protection of the mentally ill made it impossible for a person to be hospitalized or held for observation without a court order. The new Act on pretrial detention of 1990 guaranteed the individual's basic rights while at the same time improving the administration of justice. The minimum sentence for crimes warranting pretrial detention had been raised from six months to one year's imprisonment, but there was no definite time-limit for pretrial detention. Guarantees of individual rights had also been improved through such measures as the introduction of a more rigorous definition of conditions of arrest and more detailed arrest and interrogation records, providing free access to a lawyer and according the right to a public hearing after six months of detention. About 60 claims a year involving compensation for wrongful detention were brought before the Minster of Justice, about half of which were granted. A detainee could, at his own initiative, contact his family in writing or by telephone immediately following arrest, unless he was held incommunicado, in which case he could have immediate access to a lawyer. There had been no complaints of torture during the reporting period, although some complaints of ill-treatment had been made about maximum security prisons and solitary confinement. Such practices might be defensible on the grounds that restrictive measures had to be taken where circumstances and prudence so required and that dangerous prisoners had to be kept separate from others. That matter was currently before a court of appeal. A detainee could lodge complaints about mistreatment to

the authorities of the penitentiary system, the Minister of Justice and courts with summary jurisdiction. A monitoring committee would be making periodic visits to prisons after ratification by Belgium of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment. The United Nations Standard Minimum Rules for the Treatment of Prisoners, which were available in French and Dutch to all persons within the penitentiary system, were generally respected.

410. The rules governing the conditions of preventive detention had recently been changed. In general terms, the grounds for detention were reviewed within five days of detention. Detainees could lodge an appeal at each phase of their detention and had the right to request a lawyer. The affiliation of doctors who performed medical examinations of detainees had been criticized and corrective steps were being taken. Relevant information concerning organ transplants from aborted foetuses would be made available to the Committee at a later date.

Freedom of movement and expulsion of aliens

411. In relation to those issues, members asked for information on the status of the Royal Decree of 7 May 1985, prohibiting certain aliens from residing or establishing themselves in some communes, and of the appeal lodged against it and concerning the conditions and status of persons received at Centre 127 at Zaventem airport. They also wished to know whether an appeal against an expulsion order had suspensive effect.

412. In his response, the representative acknowledged that the restriction placed in areas where immigrants could settle were highly contentious and possibly inconsistent with the provisions of the Covenant. The concerns expressed by members of the Committee would be passed on to his Government, which was considering the adoption of new measures. There were several categories of expulsion of aliens, depending on their status. Appeals had suspensive effect on the expulsion orders and all remedies were based on the provisions of the European Convention and the Covenant. New rules governing the expulsion of aliens had recently been introduced, following the decision of the European Court of Justice that imprisonment and subsequent expulsion of aliens constituted double jeopardy. Asylum-seekers without valid travel documents could no longer enter Belgium as of right, but were confined to a reception centre at the transit zones of the airport while their requests were being processed. Notwithstanding the finding of the Committee against Torture that the transit zones were detention areas, the Court of Appeal in Belgium had recently reaffirmed its ruling that such confinement, for periods under two months, did not constitute administrative or penal detention.

Right to a fair trial

413. In connection with that issue, members of the Committee wished to know what the procedures were for the appointment and removal of members of the judiciary; how the Bar was organized and how it functioned; and whether legal assistance was available to criminal defendants and, if so, how it operated.

414. In his reply, the representative said that appointments of judges were made by the King on the advice of an elected body and the competent branch of the judiciary. Judges were appointed for life

and could be removed only with their own consent or by decision of the Court of Appeal. The legal profession in Belgium was independent and private. Lawyers had to be Belgians or nationals of a State member of the European Community. A council was elected annually by each Bar Association and also at the national level, to safeguard the traditions and professional interests of lawyers. Criminal defendants were entitled to ask for the assistance of a lawyer and the Government intended to provide assistance through social assistance committees and through subsidies to lawyers who did pro bono work for indigent clients.

Freedom of expression, assembly and association

415. With regard to those issues, members requested information concerning restrictions pertaining to the freedom of expression and examples of the "serious reasons" that had been accepted by the Labour Court for dismissing trade-union representatives. Members also wished to know whether the State had a monopoly on television broadcasting; who exercised control over the media; what the criteria were for determining access by professional associations to the National Labour Council; whether legislation existed to protect such right of access and what action had been taken to implement ILO recommendations in that regard; and whether the provision of the Belgian Constitution restricting outdoor meetings was compatible with article 21 of the Covenant.

416. In his reply, the representative said that, as a general principle, preventative action to restrict freedom of expression was not permissible under Belgian law. However, a posteriori judicial proceedings could be taken under the civil or criminal codes to redress damage to a person's reputation. While censorship of the press and other media was prohibited by the Constitution, there had been petitions to prevent the publication or broadcasting of damaging materials. In such cases magistrates had sought to strike a balance between all interested parties without impeding the freedom of expression, and granted petitions only where the rights of a third party had been manifestly violated. Public television channels in both Flemish and French were State-owned and operated but several French and Flemish private channels were also in operation.

417. Concerning the dismissal of trade-union representatives, the representative said that "serious reasons' were defined by law as any serious transgression that immediately and definitely rendered future collaboration between the employer and employee impossible. Trade-union representatives were protected against dismissal for reasons related to their official status and the "serious reasons' could not be linked to the existence or discharge of official duties as trade-union representatives.

Protection of the family and child, right to participate in the conduct of public affairs

418. In relation to those issues, members asked for information on legislation regarding divorce and custody of children and concerning the law and practice relating to the employment of minors. Members also wished to know what the differences were between the status of legitimate and natural children and whether the existence of the monarchy impeded the application of the principle of equal access to public office by providing privileged treatment for the aristocracy.

419. In his reply, the representative said that the custody of children in the event of a divorce or separation was determined either by agreement or by court order, which was subject to review. In determining custody, the best interests of the child were the paramount factor. Where custody was

awarded to one parent, the other retained the right to maintain personal relations with the child. All such rights were subject to judicial control if the child's physical or mental health was considered to be in jeopardy. Children who had not completed their compulsory schooling were prohibited from taking up employment except in areas related to their education and training. Work in the mining industry and activities that might jeopardize or threaten the health or morals of minors under 19 were also prohibited. The fact that a few public functions were reserved for the royal family did not interfere with full access by all citizens to public employment.

Concluding observations by individual members

420. Members of the Committee commended the State party on its excellent report, which contained detailed information on the law and practice relating to the implementation of the Covenant's provisions. They also expressed appreciation to the representative of the State party for his efforts to respond fully to the Committee's questions, praised the competence of the delegation and considered that the dialogue had been fruitful and constructive.

421. While recognizing the existence of a sound mechanism for the protection of human rights and the difficulties experienced by Belgium, members voiced some continuing concerns in such areas as the jurisdictional problem between the national and community governments; discrimination against aliens and immigrants; the lack of an overall judicial authority to deal with preventive detention; the practice of detention by the police; and the cultural bias against women. They also urged the State party to bring domestic law into line with the provisions of the Covenant, in particular articles 14, 21 and 26, and to review the need for its reservations to the Covenant.

422. The representative of the State party said he would report the various comments of the Committee to his Government and hoped that the next periodic report would show that the Committee's expectations had been met.

423. In concluding the consideration of the second periodic report of Belgium, the Chairman expressed satisfaction over the human rights situation in Belgium.

Comments of the Committee

424. As indicated in paragraph 45 above, the Committee, at its 1123rd meeting, held on 24 March 1992, decided that henceforth, at the conclusion of the consideration of a State party's report, it would adopt comments reflecting the view of the Committee as a whole.

425. In accordance with that decision, at its 1148th meeting, held on 10 April 1992, the Committee adopted the following comments.

Introduction

426. The Committee commends the State party on its excellent report, which contains detailed information on law and practice relating to the implementation of the Covenant's provisions

subsequent to the consideration of the initial report. The Committee appreciates the comprehensiveness of the report, which is in conformity with the Committee's guidelines. In particular, the Committee is grateful for both the oral and written responses provided by the State party representative. The Committee also appreciates the high competence of the delegation and considers that the dialogue with the State party was fruitful and constructive.

1. Positive aspects

427. The Committee notes with satisfaction the changes in law and in practice during the period under review, in particular the several decisions of the Court of Cassation affirming the applicability of certain provisions of the Covenant; the law on economic reorientation prohibiting any discrimination based on sex; the law abolishing all discrimination between children born in and out of wedlock; the draft law permitting immediate communication between the accused and his lawyer; the bill proposing to abolish the death penalty; and the planned accession to the Second Optional Protocol to the Covenant.

2. Factors and difficulties impeding the application of the Covenant

428. The Committee notes some of the major difficulties experienced by Belgium, such as the centrifugal character of Belgian federalism, the bipolar nature of the legal system and the language differences among the population. The complexity of the Belgian legal framework seems to have impeded a direct reference to the Covenant to a certain extent.

3. Principal subjects of concern

429. Although noting the direct applicability of several provisions of the Covenant, which for part of Belgian domestic law, the Committee is concerned about the difference between civil rights enjoyed by citizens and those enjoyed by aliens, which may lead to discrimination against aliens. Other areas of concern included the scope of interpretation given to article 6 of the Covenant; the adequacy of monitoring pretrial detention as well as the impartiality of the authorities who examine those arrested; the adequacy of remedies for wrongful detention; the adequacy of information on freedom of expression, especially in relation to television broadcasting; and arrangements as to freedom of assembly in open air.

4. Suggestions and recommendations

430. The Committee recommends to the State party to reflect more adequately in internal administrative practice the provisions of the Covenant that are not reflected in the European Convention for the Protection of Human Rights and Fundamental Freedoms (e.g. arts, 25, 26 and 27), and to ensure that the laws regarding restrictions on freedom of expression and assembly are compatible with those provided for in the Covenant. The Committee also recommends that the State party further improve the effectiveness of the protection granted to minority rights at the communal level. The Committee further recommends that the State party reconsider its reservations so as to withdraw as many as possible.

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67. The Committee considered the third periodic report of Belgium (CCPR/C/94/Add.3) at its 1706th and 1707th meetings (CCPR/C/SR.1706-1707), held on 22 October 1998, and adopted the following concluding observations at its 1720th meeting (CCPR/C/SR.1720), held on 2 November 1998.

1. Introduction

68. The Committee expresses its appreciation to the State party for its comprehensive report, as well as for its very useful core document (HRI/CORE/1/Add.1/Rev.1). It welcomes the open and self-critical approach taken by the State party in the preparation of the report, and notes the involvement and collaboration of many national institutions and universities. It observes, however, that while the report provides details on the legal order, it contains little information on actual practice. The Committee welcomes the additional data provided by the delegation from the capital and its readiness to provide written answers to pending questions.

2. Positive aspects

69. The Committee commends the establishment of institutions aimed at monitoring the observance of human rights by State authorities, including the Centre for Equality and Against Racism, and the committee to monitor the police services, with jurisdiction over all branches of the police force.

70. The Committee notes with satisfaction the establishment of the Council on Equal Opportunities for Men and Women. It notes that the participation of women in public affairs has increased since the previous report, but requests that more detailed information on women's participation in the work force be made available in the next periodic report.

71. The Committee welcomes the on-going measures to reform the judicial system undertaken by the State party, in particular those aimed at strengthening the independence of the judiciary through the establishment of a Supreme Judicial Council and a Council of Attorneys-General. The new law on the recruitment of judges and the increase in the number of judges constitute positive developments. Furthermore, penal procedures have been improved with regard to the gathering of information and investigations, and the handling of information by the police. The role of the police and of the investigating judge have been better defined. The Committee welcomes the abrogation of the Act of 11 July 1994 with a view to modernizing the criminal justice system and reducing the backlog in the courts of appeal.

72. The Committee takes note of new instructions relating to the methods and techniques under which deportations are carried out.

73. The Committee notes with satisfaction that children of illegal immigrants are entitled to education and medical care.

74. The Committee considers it a positive sign that unaccompanied minors seeking asylum are not sent back to their countries of origin, unless their safety is guaranteed.

75. With regard to the extradition of asylum seekers, the Committee welcomes the assurances by the delegation that extradition procedures are suspended until the asylum determination procedures are concluded.

76. The Committee welcomes the fact that Belgium has started the procedure for ratifying the Second Optional Protocol to the Covenant aiming at the abolition of the death penalty.

77. The Committee welcomes the establishment of an inter-ministerial committee with competence over trafficking in persons, prostitution and pornography, as well as the adoption of other legislative measures with extraterritorial application. It also welcomes the enactment of new laws aimed at combating more effectively the traffic in minors.

78. The Committee welcomes measures taken by the State party to improve prison conditions, in particular by introducing alternative forms of punishment and building new establishments to alleviate overcrowding.

3. Principal subjects of concern and recommendations

79. The Committee expresses its grave concern over the reports of widespread police brutality against suspects in custody. It regrets the lack of transparency in the conduct of investigations on the part of police authorities and the difficulty in obtaining access to this information.

80. The Committee is concerned about the behaviour of Belgian soldiers in Somalia under the aegis of the United Nations Operation in Somalia (UNOSOM II), and acknowledges that the State party has recognized the applicability of the Covenant in this respect and opened 270 files for purposes of investigation. The Committee regrets that it has not received further information on the results of the investigations and the adjudication of cases and requests the State party to submit this information.

81. Procedures used in the repatriation of some asylum seekers, in particular the placing of a cushion on the face of an individual in order to overcome resistance, entails a risk to life. The recent case of a Nigerian national who died in such a manner illustrates the need to re-examine the whole procedure of forcible deportations. The Committee would like to receive written information on the results of the investigations into this incident as well as of any criminal or disciplinary proceedings. It recommends that all security forces concerned in effecting deportations should receive special training.

82. The Committee regrets that Belgium has not withdrawn its reservations to the Covenant and urges the Government to reconsider its position in particular with regard to article 10. The Government's explanation that the reservation is necessary because there is a problem of overcrowding in prisons is not persuasive. In addition, alternative sentences, including to community service, should be encouraged in view of its rehabilitative function.

83. Community service and parole should be monitored and supervised in a more coherent way. The Committee encourages the Government to undertake an overall review of its sentencing policy and consequent training for the judiciary. The Committee is concerned that suspects do not at present

have access to counsel and to medical visits from the moment of arrest. The Committee is also concerned about the non-application of judicial guarantees in administrative tribunals and other non-judicial entities. Suspects should be promptly informed of their rights in a language they understand.

84. The Committee is concerned about the length of pre-trial detention and about the large number of detainees still awaiting trial. The Committee reminds the State party that pursuant to article 9, paragraph 3, of the Covenant, pre-trial detention should be considered exceptional and must be justifiable. It urges the State party to review its rules and practice for granting bail. The Committee notes furthermore that the period of five months' detention, which may be extended to eight months, to which asylum seekers may be subjected, may amount to arbitrary detention in violation of article 9 of the Covenant, unless the detention is subject to judicial review which secures the release of the person if there is no lawful purpose being served by the detention.

85. Bearing in mind that pursuant to article 10, paragraph 3, of the Covenant, the essential aim of incarceration should be the reformation and social rehabilitation of offenders, the Committee urges the State party to develop rehabilitation programmes both for the time during imprisonment and for the period after release, when ex-offenders must be reintegrated into society if they are not to become recidivists.

86. The Committee considers that the current jurisprudence of the Court of Cassation stating that no judicial guarantees apply to the pre-trial stage is inconsistent with the Covenant; consequently, these guarantees should be extended to the pre-trial stage.

87. The Committee expresses grave concern about the retention of article 53 of the Act of 8 April 1965 on the protection of young persons, which entitles the authorities to incarcerate minors for a period of 15 days. This practice raises questions not only under article 10 but under articles 7 and 24 as well. Furthermore, the practice of not separating minors from adult offenders in jail is not only incompatible with article 10, paragraph 3, but constitutes a violation of article 24 of the Covenant.

88. While noting that the State party is taking measures to do away with the practice of keeping psychiatric patients in prison psychiatric annexes for several months before transferring them to hospitals that treat mental disorders ("établissement de protection sociale"), the Committee points out that this practice is incompatible with articles 7 and 9 of the Covenant and that it should be discontinued.

89. The Committee expresses its concern about the distinction made in Belgian legislation between freedom of assembly and the right to demonstrate, which is excessively restricted. It recommends that such differentiation be abolished.

90. The Committee notes that the requirement of prior authorization for foreign channels on cable networks is not entirely in conformity with article 19. The right to freedom of broadcasting should first be recognized; restrictions may be imposed as provided for in paragraph 3 of article 19.

91. The Committee notes that the procedures for recognizing religions and the rules for public funding of recognized religions raise problems under articles 18, 26 and 27 of the Covenant.

92. The Committee is concerned that the report gives very little information on the de facto situation of women. The Committee requests that the next report provide precise information on the outcome of measures to promote equality and to combat violence against women.

93. The Committee remains concerned about the production, sale and distribution of paedo-pornography. It urges the State party to take effective measures to curtail the possession and distribution of these criminal materials.

94. The Committee is concerned that provisions relating to fake marriages and to the expulsion of aliens may give insufficient protection to the right to marry and family life as recognized in articles 17 and 23 of the Covenant.

95. The Committee requests the State party to ensure the publication and wide dissemination in Belgium of the State party's report as well as of the Committee's concluding observations.

96. The Committee has fixed the date for submission of Belgium's fourth periodic report at October 2002.