



**Convention against Torture
and Other Cruel, Inhuman
or Degrading Treatment
or Punishment**

Distr.
GENERAL

CAT/C/BEL/Q/2
9 September 2008

ENGLISH
Original: FRENCH

COMMITTEE AGAINST TORTURE
Forty-first session
3-21 November 2008

**List of issues to be taken up in connection with the consideration
of the second periodic report of BELGIUM (CAT/C/BEL/2)**

Article 1

1. [Please provide information on planned or existing measures to ensure that all elements of the definition set forth in article 1 of the Convention] against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (“the Convention”) are reflected in the [general definition included in article 417 bis of the Belgian Criminal Code, as recommended by the Committee in paragraph 6 of its previous concluding observations (CAT/C/CR/30/6).]

Article 2

2. Please clarify whether the Royal Decree setting out the police code of ethics has been drafted. If so, please indicate when it comes into force and whether it explicitly prohibits torture.
3. In paragraph 26 of its report on its visit to Belgium in April 2005, the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) expressed concern at the fact that minors, from the age of 14, were questioned by police officials - and even signed statements - without the assistance of a lawyer, guardian or trusted adult. Please indicate the measures taken to remedy this situation.

Article 3

4. Please provide detailed information on [the implementation of the instructions regarding the use of force during the removal of aliens and their compliance] with the Convention. Please specify how their effective implementation is guaranteed.
5. Please provide detailed information on the reform of the Council of State carried out in 2004-2005, indicating, in particular, what it involved and the progress made. Please also specify if this reform will give suspensive effect not only to emergency remedies applied for but

also to appeals filed by any foreigner against whom an expulsion order is issued and who claims that he or she faces the risk of being subjected to torture in the country to which he or she is to be returned, as recommended by the Committee in paragraph 7 (d) of its previous concluding observations.

6. In paragraph 7 (e) [of its previous concluding observations] the Committee had recommended setting a time limit for the detention of foreigners against whom an expulsion order is issued and monitoring asylum-seekers who have been released. Please indicate the concrete [administrative and legal] measures taken to implement this recommendation.

7. Please specify whether the Aliens Office continues to hold foreigners who have obtained a release order from the Council Chamber in the transit zone of Brussels airport [and the legal grounds for such detention.] Please provide data, disaggregated by age and sex, on the number of persons who were held in the transit zone in 2004, 2005, 2006 and 2007 and for how long. What measures does the State party plan to implement to prevent the detention of foreigners in the transit zone? Furthermore, please specify the time limit for the detention of foreigners who oppose their expulsion. Please clarify how the State party is able to guarantee that the regulations of the INAD centre are in conformity with the Convention.

8. In paragraph 73 of its report [(CAT/C/BEL/2),] the State party indicates that a special Commission was instructed by the Government to draw up expulsion procedures for foreigners. Please provide the Committee with details of these procedures.

9. Please provide detailed information on the number of complaints of torture or cruel, inhuman or degrading treatment during the forcible deportation of foreign nationals received since 2003, the reason for these complaints, and their outcome in terms of prosecutions, sanctions and compensation for victims. Please indicate what appeal procedures are available to victims and whether the State party intends to modify the admissibility criteria with respect to the current time limit of five days from the alleged violation of rights for the written submission of a complaint. Furthermore, please indicate the reasons for the six complaints received in 2003 mentioned in paragraph 75 of the State party's report.

10. Please indicate in which cases Belgium would seek diplomatic assurances from a third country to which an individual is to be extradited, returned or expelled. Please also provide examples of cases in which the authorities did not proceed with the extradition, refoulement or expulsion of an individual for fear that the person concerned would be tortured. On the basis of what information were any such decisions taken?

11. Please provide data, disaggregated by age, sex and nationality, for 2004, 2005, 2006 and 2007 concerning:

- (a) The number of asylum requests registered;
- (b) The number of requests granted;
- (c) The number of applicants whose requests were granted because they had been tortured or because they might be tortured if they were returned to their country of origin;

(d) The number of forcible deportations or expulsions (please indicate how many of them involved rejected asylum-seekers);

(e) The countries to which these persons were expelled and the methods used by the State party to ensure that the returned persons were not at risk of being subjected to torture in the destination country.

12. Please indicate what legal guarantees exist for foreigners who are not admitted into Belgian territory and, in particular, whether such persons are informed of the reasons for this measure in a language that they understand and of their right to be heard and to have the decision reviewed by an appropriate authority.

Article 4

13. Please provide detailed information on cases where article 417 bis to article 417 quinquies have been directly applied since their inclusion in the Criminal Code.

14. Please indicate the precise role of airlines in the removal process. Please also specify whether law enforcement officials accompany the persons being expelled during the flight. If so, please specify under what conditions they are accompanied and which body is responsible.

15. Please indicate what measures are taken to ensure that the medical examination prior to an enforced departure is carried out properly. Please also provide information on the presence of representatives of non-governmental organizations or independent physicians during enforced removals by air.

Article 7

16. Please indicate if Belgium has ever used the Convention as a legal ground for extraditing persons accused of committing acts of torture. Please cite cases in which extradition was refused under article 3. Please also inform the Committee on the progress made on the bill amending domestic legislation on extradition, cited in paragraph 87 of the State party's report. Please clarify whether the provisions of the Convention are included in the aforementioned bill.

Article 10

17. Please specify whether the provisions of the Convention are an integral part of the training of the personnel responsible for supervising detainees, including minors and committed psychiatric patients, and the personnel responsible for the removal of aliens, as recommended by the Committee in paragraph 7 (m) of its previous concluding observations. Is information included in the training on the possible sanctions and penalties provided for in Belgian law for infringements of the provisions of the Convention?

18. Please indicate whether there are specific programmes to train medical personnel assigned to identify and document cases of torture and assist in the rehabilitation of victims.

Articles 11 and 16

19. In paragraph 19 of its concluding observations, the Human Rights Committee expressed concern at the persistent prison overcrowding in Belgium [(CCPR/CO/81/BEL)]. Please indicate what measures the State party has taken since 2004 to respond to this concern and, in particular, to make more use of alternative sanctions. Please clarify whether the State party envisages setting a ceiling on the number of detainees per prison.

20. In its second periodic report, the State party mentions an administrative circular regulating the disciplinary procedure applied to detainees. What sanctions can be applied if it is transgressed? Does the State party plan to publish this circular as a Royal Decree? What remedies do detainees have to appeal against disciplinary measures taken against them? How does the State party ensure that such punishments are determined in a fair and impartial manner?

21. Was there a significant increase in the allocation of funds for the improvement of infrastructure and detention facilities between 2004 and 2007?

22. Have measures been taken to prevent a recurrence of the serious incidents in 2003 at the Andenne Prison, where two detainees died during a strike by prison staff from 17 to 22 September 2003? Please indicate whether basic services have been introduced in prisons to offset staff shortages in the event of strikes by prison wardens, as recommended in the report of the European Committee for the Prevention of Torture following its visit to Belgium in 2005.

23. According to the State party's report, part VI, of the basic legislation creating a legal framework for the placement of detainees under a special, individual security regime came into force on 15 January 2007. Please indicate if these measures are independently and impartially monitored either by a judicial body or by bodies outside the prison system, including non-governmental organizations.

24. How does the State party plan to follow up the recommendations of the working group on the provision of psychiatric care for inmates, referred to in paragraph 309 of its report? What concrete measures does the State party envisage implementing in order to solve the problem of overcrowding in these units and the lack of therapeutic care available to inmates, deplored by the European Committee in its last report and by the Committee in paragraph 5 (k) of its previous concluding observations [(CAT/C/CR/30/6)]. Please specify how long, on average, inmates have to wait before receiving care.

25. Please provide information on any emergency or anti-terrorist laws that might restrict a detainee's rights, in particular the right to a prompt hearing by a judge, the right to contact family members and to inform them of the situation, and the right to have access to a lawyer and a physician from the moment of arrest.

Articles 12 and 13

26. Please explain to what extent the crown procurator's discretion to decide whether to investigate a complaint and to prosecute, as provided for in article 28 quater of the Code of Criminal Investigation, is compatible with the provisions of articles 6, 7 and 12 of the Convention.

27. In paragraph 7 (c) of its previous concluding observations, the Committee against Torture recommended that the State party should conduct immediate inquiries into any allegations of the excessive use of force by law enforcement officials. What progress has been made in implementing this recommendation? In that regard, please indicate whether there were any charges, convictions or decisions aimed at offering redress or compensation to victims of acts of torture and/or other cruel, inhuman or degrading treatment or punishment. Please indicate what appeal procedures are available to victims and whether the State party intends to modify admissibility criteria as requested in question 9 above.

28. Please provide information on the effective implementation of the Act of 25 April 2007 amending the Police Functions Act of 5 August 1992 regarding deprivation of liberty registers. Please specify whether these registers are currently available to police stations and whether they are properly filled in.

29. Please provide detailed information on any investigation or inquiry carried out into the use of Belgian airports and airspace by aircraft used for the programme of extraordinary rendition or the transportation of detainees within the framework of the European Parliament resolution on the alleged use of European countries by the CIA for the transportation and illegal detention of prisoners (2006/2200(INI)).

30. Please provide information on the follow-up to the collective complaint submitted to the Brussels Public Prosecutor's Office and the Standing Committee on the Supervision of the Police Services by persons who were removed from a church in Anderlecht in June 2006 and allegedly insulted, beaten and humiliated during their transfer to the Vottem detention centre.

Article 14

31. Please indicate whether Belgium makes physical, psychological and social rehabilitation services available to victims of torture or cruel, inhuman or degrading treatment.

32. Please indicate whether, under the Act on the Composition and Operation of the Financial Support Board for the Victims of Deliberate Acts of Violence of 22 April 2003, foreigners in an irregular situation can receive funds intended [inter alia,] for their rehabilitation.

Article 15

33. Please clarify whether the Criminal Code explicitly provides that no statement proved to have been made as a result of torture may be invoked as evidence in proceedings. Please provide detailed information on the measures taken in response to the Committee's recommendation included in paragraph 7 (n) of the Committee's previous concluding observations.

Other

34. Please indicate whether Belgium has legislation aimed at preventing and prohibiting the production, export and use of equipment specifically designed to inflict torture or other cruel, inhuman or degrading treatment. If so, please give details of its content and implementation. If not, please indicate whether the adoption of such legislation is being considered.

35. In the light of the relevant Security Council resolutions, please provide information on the legislative, administrative and other measures that the State party has taken in response to the threat of terrorist acts and describe any effects such measures may have had on human rights safeguards in law and practice.

36. Does Belgium envisage ratifying the Optional Protocol to the Convention against Torture? If so, has it established or designated a national mechanism to conduct periodic visits to places of detention in order to prevent torture or other cruel, inhuman or degrading treatment?
