



International Covenant on Civil and Political Rights

Distr.: General
28 October 2010

Original: English

Human Rights Committee 100th session

Summary record of the 2750th meeting

Held at the Palais Wilson, Geneva, on Thursday, 14 October 2010, at 3 p.m.

Chairperson: Mr. Iwasawa

Contents

Consideration of reports submitted by States parties under article 40 of the Covenant
(*continued*)

Fifth periodic report of Belgium

This record is subject to correction.

Corrections should be submitted in one of the working languages. They should be set forth in a memorandum and also incorporated in a copy of the record. They should be sent *within one week of the date of this document* to the Editing Unit, room E.4108, Palais des Nations, Geneva.

Any corrections to the records of the public meetings of the Committee at this session will be consolidated in a single corrigendum, to be issued shortly after the end of the session.

The meeting was called to order at 3 p.m.

Consideration of reports submitted by States parties under article 40 of the Covenant
(continued)

Fifth periodic report of Belgium (CCPR/C/BEL/5; CCPR/C/BEL/Q/5 and Add.1; HRI/CORE/1/Add.1/Rev.1)

1. *At the invitation of the Chairperson the members of the delegation of Belgium took places at the Committee table.*

2. **Mr. Tysebaert** (Belgium), introducing his country's fifth periodic report (CCPR/C/BEL/5), said that several public authorities had been involved in drafting the report and his Government's written replies to the Committee's list of issues (CCPR/C/BEL/Q/5/Add.1). They had been coordinated by the Federal Public Service for Foreign Affairs. A number of NGOs had also been involved in the drafting process. Although legislative measures had been taken in response to the Committee's previous concluding observations (CCPR/CO/81/BEL), two dissolutions of Parliament during the reporting period had resulted in some of those initiatives remaining uncompleted.

3. Referring to question 1 of the list of issues, he said that the names of Nabil Sayadi and Pascale Vinck had been removed from the list of persons connected with Osama bin Laden, Al-Qaida and the Taliban, pursuant to a decision of the European Commission.

4. With regard to Belgium's reservations to the Covenant (question 2), he said that those reservations would be maintained in order to ensure consistency with domestic provisions on private international law and on the legal status of detainees.

5. Turning to questions 3 and 4, he explained that focal points had been established within each federal department and each subnational entity; they met with experts from different departments to ensure national coordination where appropriate, including in relation to Belgium's international commitments. Although a national human rights institution had not yet been established, there were several institutions dealing with specific areas of human rights such as gender equality, equal opportunities, the rights of the child, humanitarian law and privacy.

6. On the implementation of new anti-discrimination legislation (question 5), he said that Belgian courts handed down heavier sentences for racially-motivated offences, as provided for in the new legislation. The courts also applied provisions prohibiting denial of the genocide perpetrated by the German National Socialist regime. The Institute for Equality between Women and Men intervened in cases of gender-based discrimination. In 2009, 150 cases had been submitted, 20 per cent of which had been dismissals linked to pregnancy. Such dismissals were prohibited by law and constituted gender-based discrimination.

7. The first Plan of Action for Diversity 2006/2007 adopted by the Ministry of the Brussels-Capital region (question 6) was based on awareness-raising, information and training. It also provided for research and analysis, and the adaptation of regulations. The plan focused on three main targets: differential treatment of men and women; persons with disabilities; and foreigners. The implementation of the plan had given the Ministry a reputation as an employer that supported diversity and applied competence-based recruitment and selection procedures. The following were among the actions taken by the federal authorities: the Plan of Action of the Federal Ministry of the Civil Service to promote diversity among staff at the various levels, including the adoption of the Federal Government's Charter of Diversity; the appointment of a diversity focal point in each authority working on diversity policies; the establishment of a network of external partners from associations and universities; the organization of a national information campaign;

targeted communication campaigns for persons with disabilities and foreigners, and the *Women at the Top* campaign, encouraging women to apply for managerial positions; and specific training programmes for recruitment officers. A Royal Decree had set a 3 per cent quota for the representation of persons with disabilities in each federal institution.

8. Regarding gender equality (question 7), he said that the Federal Government was obliged by law to set strategic objectives for gender parity, which should be implemented through public authority management plans. Each ministry and public authority would appoint an adviser for gender mainstreaming. All draft legislation would also be subject to a “gender test”. In the French community, a five-year government action plan for gender equality, multiculturalism and social inclusion had been adopted in February 2005. In the Flemish community, an equal opportunities policy had been established, consisting of awareness-raising campaigns and a number of studies to be conducted by the Flemish Ministry for Equal Opportunity, and a coordination scheme, which brought together the 13 Flemish departmental authorities, thus enabling an equal opportunities perspective to be introduced in various spheres, including education, employment, health care, housing and research.

9. In the Walloon region, gender equality was a cross-cutting issue addressed by all departments. The Directorate for the Integration of Foreigners and Equal Opportunities was responsible for managing specific subsidies, identifying actions taken at the regional level to promote gender equality, monitoring the incorporation of international provisions into domestic law, and reporting on actions taken to the Walloon parliament. Several mechanisms were in place to promote gender mainstreaming in the Brussels region, including the appointment of an equal opportunities officer and the establishment of a plan of action for equal opportunities. The federal authorities liaised with the coordinating bodies at the provincial level working on equal opportunities and violence against women. Belgian firms were obliged by the Royal Decree of 6 June 2010 to apply the “code of good governance”, which included provisions on gender diversity in the administrative councils.

10. Legislation promoting women’s participation in public life (question 8) was very strict and set quotas for the representation of each sex in the various legislative and executive institutions. The jurisprudence of the courts on the personal status of foreigners in Belgium and the risk of discrimination could refer to the national law of the country of origin, pursuant to the rules of Belgian private international law. The Belgian Code of Private International Law contained an exception clause in the event that the national law concerned discriminated against women.

11. Turning to question 9 of the list of issues on access to certain community services in some Dutch-speaking communes only being granted to persons who spoke Dutch or had made a commitment to learn it, he said that those restrictions had been imposed by some individual communes and not by the Flemish government. Some communes had set linguistic conditions on the purchase of community land. Those decisions were not based on the Flemish Housing Code, which provided for social housing for a variety of residents, who should be willing to learn basic Dutch, and provided for free Dutch lessons to improve understanding and communication between residents. That linguistic requirement had not yet led to the refusal of any tenancy applications and did not constitute an obstacle of any kind to access to housing for those concerned. Local provisions resulted from decisions taken by communal councils, which could come under administrative supervision by the Flemish government in the event that a complaint was filed. When the Flemish government received a complaint, it instituted an investigation into the provisions in question. In that regard, the Flemish government had overturned a decision of the communal council of Liedekerke whereby access to communal play areas had been refused to children who did not speak Dutch. All decisions were subject to examination of legality by the courts and tribunals pursuant to the Constitution.

12. No case involving international legal assistance in criminal matters had been filed (question 10).

13. With regard to arbitrary arrests (question 11), he said that Standing Committee P monitored police activities, and the police code of ethics contained several provisions for the protection of fundamental rights and freedoms. All police officers were trained in the management of violence and the legal aspects of the use of force relating to techniques for arrest, immobilization and restraint. An agreement had been concluded between the police and the Centre for Equal Opportunity which aimed to guarantee training for all police officers in anti-racism and anti-discrimination legislation. His Government had been surprised by the singling-out of the Brussels/Ixelles and Brussels-Midi police districts. The police force in the latter district had been reorganized in 2009 with the aim of promoting increased responsibility within the police hierarchy. That reform had resulted in better supervision and better-quality law enforcement services. Any complaints received were subject to a preliminary investigation by the internal monitoring service, and complainants were systematically informed of the results of the investigations and the options open to them for further action. Should the case be liable for criminal prosecution, the competent judicial authority would be contacted. Several detention facilities had been renovated in 2008.

14. Among measures taken to ensure the independence and objectivity of the members of Investigation Service P was a legislative amendment that aimed to ensure qualification-based recruitment. Standing Committee P had also been reformed; the members of the new Standing Committee P, which had become operational in February 2010, were all independent judges.

15. Turning to question 12 of the list of issues on action to combat conjugal violence, he said that as a result of the National Plan of Action 2004–2009 a definition of conjugal violence had been established, public awareness of the problem had been raised, training had been provided for police officers, judges and physicians, two resource centres specializing in inter-partner violence had been created in the Walloon region, efforts had been made to harmonize criminal policy on conjugal violence, and a new plan of action for 2010–2014 had been drafted.

16. Sexual violence (question 13) carried specific penalties under Belgian criminal law. There were no statistics available on amounts of compensation awarded to victims.

17. The legal status of prisoners (question 14) was set out in the Principles Act of 2005, which provided for the right of prisoners to file complaints against decisions by the prison authorities. Some provisions had not yet entered into force, but prisoners could still apply to the courts to contest their conditions of detention. A complaints commission would also be established under that Act.

18. Two Master Plans had been formulated to respond to two main concerns: (a) to renovate existing prisons or replace old prisons altogether; and (b) to increase prison capacity by building new detention facilities to overcome the problem of overcrowding (question 15). The prison building plan was spread over several phases, with different deadlines. All phases were under way, and the first phase was the most advanced. Two psychiatric detention facilities were being built in Antwerp and Ghent, which would have capacity for 450 detainees. A prison was being built in Termonde and a young offenders' institution was being built in Achène.

19. With regard to prison overcrowding, measures were being taken to increase community service sentences, probation and electronic tagging as alternatives to imprisonment (question 16). Belgium was also temporarily renting the Tilburg prison in the Netherlands, which had a capacity of 500. Belgian prisoners in that prison were subject to

Belgian law, and the fact that they were being held in the Netherlands had no impact on their rights under the Covenant (question 17).

20. **Mr. Amor** complimented the State party on the quantity and quality of the information provided in the report and the written replies to the list of issues.

21. Referring to the Committee's Views in the case of Nabil Sayadi and Pascale Vinck, he noted that the complainants' names had been removed from the Sanctions Committee's list. However, the Committee had found that articles 12 and 17 of the Covenant had been violated and had requested the State party to consider the possibility of compensating the complainants. He asked whether such action had been contemplated and whether the complainants themselves had considered taking legal action to obtain compensation. The State party had also been invited to publish the Committee's Views. Had it complied with that request and, if so, in what manner?

22. He was familiar with the procedure in Belgium for implementing the rulings of the European Court of Human Rights. Was there a similar procedure for implementing the Committee's Views and decisions by other treaty bodies?

23. He regretted the State party's position with regard to its reservations to the Covenant, particularly since the Committee had urged it to withdraw them in its concluding observations on Belgium's fourth periodic report (CCPR/CO/81/BEL).

24. As to the international functions exercised by subnational entities, he said that the structure of the Belgian State was *sui generis* and difficult to understand, particularly its implications for the implementation of article 50 of the Covenant, which stipulated that the provisions of the Covenant were applicable to all parts of federal States without any limitations or exceptions. As Belgian subnational entities were very active at the international level, he requested further information regarding the scope of their international jurisdiction under the Constitution. He was aware that article 167 of the Constitution recognized the international role of community and regional governments, and that article 127 mentioned cultural matters and education as areas in which they had special jurisdiction; but he wondered to what extent account was taken in that context of article 50 of the Covenant.

25. The State party had informed the Committee about contacts and exchanges of views at the federal, regional and community levels with a view to coordinating structures and policies. He enquired about the scope and legal status of such contacts, particularly in the light of the State's international obligations, and asked for more information concerning the institutionalized procedure mentioned by the delegation.

26. Although the State party had created a number of sectoral or thematic bodies, such as the Centre for Equal Opportunity and Action to Combat Racism, the National Commission for the Rights of the Child and the Inter-Ministerial Commission on Humanitarian Law, it was difficult to obtain a strategic overview of action in support of human rights in Belgium. He wondered, for instance, why no steps had been taken to establish a national human rights institution that would assume responsibility for the development of a coordinated strategic approach to human rights.

27. With regard to the personal status of foreigners, the Code of Private International Law stipulated that domestic law should be applied in personal-status matters. However, the relevant provisions of domestic law were sometimes questionable, for instance with respect to the minimum age for marriage. In 1994, a Belgian court had actually recognized the status of a second wife in a polygamy case because she had required protection under the social security system.

28. Noting that prisoners were being transferred to the Netherlands because of the lack of space in Belgian prisons, he enquired about the reasons for the overcrowding. The State

party should perhaps opt more frequently for alternative penalties to imprisonment. At all events, it was difficult for the Belgian authorities to guarantee the rights of prisoners who were serving their sentences in a different country, for instance the right to family visits.

29. **Ms. Majodina**, referring to the State party's fine record in the area of gender equality, said that she was disappointed by the fact that fewer than one third of the members of the delegation were women.

30. She welcomed the legislation recently enacted and other measures taken to combat discrimination. However, the Committee had not received an adequate response to its request for detailed examples of enforcement of the new anti-discrimination laws. It would have welcomed more information on the challenges encountered. For instance, what kind of challenge did the proliferation of entities dealing with discrimination present in terms of the collection of data and their interpretation? She was also interested in hearing about action to raise public awareness of the new legislation and to counter the propaganda put out by some of the country's right-wing political parties.

31. The many anti-discrimination training courses were commendable but she was well aware of the difficulties involved in training law enforcement officials. Police officers tended to ignore their training when they were in the firing line and came face to face with offenders.

32. The Committee had been informed by NGOs that racial-profiling by police officers was a continuing problem, and that direct and indirect discrimination persisted in employment, access to housing, public services and education. Discrimination based on language was another phenomenon that seemed to be on the increase and there was continuing discrimination against non-citizens. She felt that it would make more sense if federal equality bodies, such as the Centre for Equal Opportunity and Action to Combat Racism, were mandated to act under community and regional non-discrimination legislation.

33. Turning to question 6 concerning plans of action to promote diversity, she thanked the delegation for providing additional information on programmes and projects in the Brussels region and at the federal level. However, she would have welcomed more information on the results achieved. The written reply to question 6 mentioned a royal decree concerning people with disabilities that introduced an employment quota of 3 per cent for each federal institution. Yet the Committee had heard from NGOs that the quota achieved to date was less than 1 per cent in some cases and never greater than 1.5 per cent. Moreover, the quota was not applicable to the private sector.

34. The Committee had also been informed that no sanctions were applied to companies that failed to comply with federal legislation regarding non-discrimination.

35. With regard to question 11, the Committee had been informed by NGOs that ill-treatment and racial-profiling by the police continued unabated. She noted that Belgian legislation on detention did not require a lawyer to be present when a suspect was questioned by the police or even when a person was questioned by an investigating judge prior to the issuing of an arrest warrant.

36. She enquired about the legal basis for the decision to permit the use of tasers by the police.

37. A number of persons had apparently been arrested on 29 September 2010 in connection with a large demonstration before they had even taken part. What was the legal ground for those arrests? She had been informed of another recent incident in which mass arrests had occurred and physical force had been used not only during the arrests but also subsequently in police custody.

38. She welcomed the fact that Standing Committee P, which was responsible for external police oversight, taking follow-up action and reporting to Parliament, was no longer composed of police officers and former police officers but of independent judges. However, civil society bodies still criticized the Committee for lack of transparency and for failing to give sufficient attention to the victims' side of the story.

39. **Ms. Keller**, commenting on question 13, said that she had been very impressed by the details concerning domestic violence provided in annex 4 to the written replies. She asked whether the figures reflected all proceedings concerning domestic violence or only those that had been referred to a court of law. Were the police empowered to issue eviction or other protective orders on the spot?

40. While the State party had provided all the information requested regarding the number of perpetrators, convictions and sentences, it had failed to indicate what compensation had been awarded on the ground that no system existed for compiling statistics on reparations to victims. She found that somewhat surprising in the light of all the other data that had been successfully compiled.

41. **Mr. El-Haiba** asked what measures were being taken or envisaged to address the high rate of unemployment among women, the persistence of the gender pay gap and the small percentage of women in high-level posts, notably in public administration, the diplomatic corps and universities. He enquired what methods were used at the federal, regional and communal levels to coordinate and evaluate action taken by the State party in those areas.

42. He also wished to know what action had been taken to foster a positive image of, and attitude towards, women in the media and in society, including among young people, and whether such action had included training programmes in human rights. He was concerned at reports that women with disabilities were often subjected to double discrimination in the area of employment, and asked what political and regulatory measures were being taken to ensure gender equality, including in the case of women with disabilities. He requested an account of the problem of linguistic tension within the Belgian population, which hindered the efforts of the State party to promote cultural and linguistic diversity, in accordance with its obligations under the Covenant.

43. He asked whether the State party made a distinction between the concepts of domestic violence and inter-partner violence. He enquired whether inter-partner violence constituted an aggravating circumstance for certain offences defined in the Criminal Code, and whether the Code defined as specific offences domestic violence and the use of corporal punishment against children.

44. He welcomed the establishment of the National Commission for the Rights of the Child, but noted that there was a need to strengthen its efforts in coordinating and collecting disaggregated statistics on child abuse, child trafficking and sex tourism for purposes of paedophilia. He wished to know what measures were being taken to ensure that perpetrators were brought to justice and to allocate adequate financial resources for the Commission to perform a coordinating role, given that there was no other coordinating body. He invited the delegation to comment on the fact that the national action plan for children appeared to have set no specific goals or timetable for meeting its objectives, no mechanism to monitor its progress and no budget to fund its activities.

45. He requested details concerning the Belgian system of juvenile justice, in particular the number of young offenders and the number of cases that had been dealt with under the new juvenile justice policy. He asked how many facilities were operated under the system and how many offenders were held in them. He would be grateful for information concerning measures taken by the State party to ensure the social reintegration of minors, irrespective of whether those measures relied on corrective, educational or traditional

methods. With regard to the introduction of new technologies, such as electronic surveillance, he wished to know what measures were being taken to protect minors from the risk of the abuse of such technologies.

46. Further information on the practice of renting prison space in the Netherlands should be provided, particularly with regard to the applicable law when prisoners from Belgium were held in those facilities.

47. **Sir Nigel Rodley** welcomed the fact that constitutional rank had been conferred on the law abolishing the death penalty in Belgium. Considering that Belgium had become a party to Protocol No. 13 to the European Convention for the Protection of Human Rights and Fundamental Freedoms, concerning the abolition of the death penalty in all circumstances, and to the Second Optional Protocol to the International Covenant on Civil and Political Rights aiming at the abolition of the death penalty, it was inconceivable that the State should ever wittingly send a person back to a country where they were likely to face the death penalty. He would nevertheless be grateful if the delegation would confirm that that was the case, thereby putting the issue to rest once and for all.

48. Reiterating concerns expressed by the Committee in questions 14 and 15 of the list of issues, he asked when the State party expected the provisions of the Dupont Act to enter into force and when it expected an effective system for lodging complaints of alleged abuses in detention to become operational. With regard to conditions of detention and the problem of prison overcrowding, he recalled that, on its most recent visit, the European Committee for the Prevention of Torture (CPT) had found that five prison complexes in Belgium had recorded an overpopulation rate of 150 per cent. Such crowded conditions meant that prisoners were not treated with respect for their human dignity, making the already unpleasant experience of being deprived of their liberty an intolerable one. According to the CPT, prisoners had severely restricted living space, a lack of privacy for the use of hygiene facilities, limited activities outside the cell as a result of prison understaffing and an overburdened health-care system. Such conditions led to inter-prisoner violence or violence between prisoners and prison staff. There was an urgent need for the State party to address those problems as a matter of priority.

49. Although both the State party's periodic report and its written replies referred to a master plan for 2008–2012 under which prison capacity would be increased, experience had shown that one could not build oneself out of the problem of overcrowding, since, when more spaces were created, the justice administration promptly filled them. He asked what measures, in addition to adding more spaces, were envisaged by the Government and what measures it would take to ensure that the alternatives to prison that already existed under Belgian law were utilized more frequently. In addition, he wished to know what time frame had been set for resolving the problem, which, in fact, amounted to a continuing violation of the Covenant and other international obligations binding on the State party. It was imperative that the State party should act swiftly to put an end to the damaging, counterproductive and offensive living conditions of persons deprived of their liberty, and to protect their right to be treated with respect for their inherent human dignity and not to be subjected to cruel, inhuman or degrading treatment or punishment.

50. **Ms. Chanet** asked for an explanation of how, in connection with the Court of Assize, the State party applied article 149 of its Constitution, which prescribed that all judgements should include a statement of reasons and should be pronounced in public hearings, since the Assize Court's judgements did not include a statement of reasons. She was particularly interested in the answer to that question in the light of the judgement against Belgium by the European Court of Human Rights in the *Taxquet v. Belgium* case, which had been referred to the Grand Chamber, and in the light of the Committee's general comment No. 32 on article 14.

51. With regard to the reservation formulated by Belgium to article 14, paragraph 5, of the Covenant, she said that, to the extent that article 147 of the Belgian Constitution expressly stipulated that the Court of Cassation lacked competence to consider matters of substance, it was clear that there could be no review by a higher tribunal within the meaning of the Covenant. The State party was therefore required to maintain its reservation, given that the Covenant provided that everyone convicted of a crime had the right to have his conviction and sentence reviewed by a higher tribunal according to law.

52. With regard to article 50 of the Covenant, which stated that the provisions of the Covenant extended to all parts of federal States without any limitations or exceptions, she expressed concern that the Government could not oppose regional decisions in order to meet its obligations under the Covenant. The Committee had received worrying reports of cases of discrimination on the grounds of language in the communes surrounding Brussels and of the increasingly open political exploitation of tensions between the Flemish and French linguistic communities. Although corrective measures had been taken in recent years, they appeared to have been ineffective. She asked whether persons who believed their rights had been violated in that regard could lodge a complaint and whether any judicial decisions had been handed down in cases involving acts of discrimination on the ground of language, particularly in relation to access to schooling and social housing.

53. With regard to the transfer of convicted prisoners abroad to serve their sentence, she wished to know on what legal basis prisoners were transferred, in particular in the light of the State party's obligations under article 10 of the Covenant. When such prisoners were held in the Netherlands, did Belgian law continue to apply to them or were they subject to the law of the Netherlands? The practice of transferring prisoners posed a number of problems, firstly because it was difficult to enforce the law in a foreign country, and secondly because it could give rise to discrimination among the prisoners concerned.

54. **Mr. Thelin** requested details of the regulations issued to the police on the use of taser weapons. It appeared that the authorities had been unable to decide whether the legal basis for such weapons was the right of the police to use force or to use arms, or some other basis. He also wished to know why some of the incidents in which those devices were used were not reported.

55. The Committee would welcome additional details on the mass arrest of demonstrators on 29 September 2010 in Brussels. There had been reports that the police had misused their power to carry out administrative detention, allowing them to hold detainees for up to 12 hours in order to perform identity checks. The incidents also raised the question of freedom of assembly, in relation to article 21 of the Covenant. While he understood that investigations and court action might be pending, thus preventing the delegation from giving an opinion on that matter, any clarification would be appreciated.

The meeting was suspended at 5.05 p.m. and resumed at 5.25 p.m.

56. **Mr. Wery** (Belgium) said that no specific decision had been taken on the establishment of a national human rights institution. In 2003, the Government of the day had undertaken to set up such a body. However, that Government had made insufficient progress to bring the project to fruition, and the issue had remained unresolved at the end of 2007. Since then, it had arisen indirectly, particularly in relation to his country's ratification of the Optional Protocol to the Convention against Torture and the Convention on the Rights of Persons with Disabilities. Currently, establishing such a body was complicated by the fact that there were already many sectoral bodies that monitored observance of fundamental rights but did not function in accordance with the Paris Principles. In addition, while he recognized that such an institution would enhance the country's human rights capacity, the current political situation did not lend itself to a decision on the issue.

57. Referring to the coordination of Belgium's various human rights bodies, he noted that each governmental department was responsible for monitoring the implementation of the country's international obligations. While there was no general or specific approach to fundamental rights and no official structure, there were coordination bodies such as the inter-ministerial conferences and the consultation committees which brought together the federal and federated authorities. The coordination bodies were effective, as demonstrated by the number of national action plans that had been adopted at the federal and federated levels, and which were currently being implemented.

58. **Mr. Musschoot** (Belgium) said that, under the Belgian system, the obligations the country had undertaken when ratifying the Covenant were fulfilled as they were in any other federal State, in accordance with article 50 of the Covenant. Since all legislative instruments were examined by the Council of State before ratification, and were thereafter subject to appeal before the Constitutional Court, safeguards were in place concerning respect for the Covenant. The Covenant could be directly invoked in all Belgian courts.

59. **Ms. de Souter** (Belgium) said that, under legislation of 10 December 2009 on the reform of the Court of Assize, the Court was obliged to state the reasons for the decisions it took under article 334, paragraph 2, of the Code of Criminal Investigation.

60. No specific crime of conjugal violence or inter-partner violence had been incorporated into criminal law because such violence could take many forms. In order to respond appropriately to the particular circumstances of each case, it had always been thought preferable to treat such violence as an aggravating circumstance, under article 410 of the Criminal Code. That enabled investigating judges to propose higher penalties and to serve arrest warrants in accordance with the legislation on pretrial detention. The definition of rape in article 375 of the Criminal Code incorporated the notion of marital rape and rape of a partner.

61. Several other articles of the Criminal Code contained provisions on sexual harassment, forced marriage and female genital mutilation. In addition, a circular adopted by the Public Prosecutors' Association defined violence within the family and child abuse outside the family and set out ways for police and prosecutors to identify and record those offences. A joint circular on criminal policy on inter-partner violence issued by the Minister of Justice and the Public Prosecutors' Association established the role of the police and prosecutors in such cases, emphasizing that their intervention must conform to a multidisciplinary approach based on pooling the skills and experience of all stakeholders in the legal, medical, psychological and social sectors. While the police did not have the power to issue restraining orders, the multidisciplinary approach meant that victims did have protection as soon as the police intervened. Data were gathered on compensation, but they were not disaggregated by offence, so no specific figures were available on compensation awarded to victims of domestic violence.

62. Belgium had not received any requests for legal assistance from other countries that involved any risk of the person handed over being sentenced to death. Were such a case liable to occur, the authorities would take all necessary precautions.

63. The authorities were aware of the need to amend the legislation on pretrial detention in order to ensure that detainees had the right to consult a lawyer before they were brought before the investigating judge. The amendment would require many practical changes, such as ensuring that lawyers were available round the clock. Several initiatives had been taken to prepare the amendment, but they had unfortunately been interrupted by recent political events. Nonetheless, progress had been made and it was hoped that the amendment would come before the Senate in the near future.

64. **Mr. Musschoot** (Belgium) said that Parliament was currently in the process of implementing the necessary measures to ensure that legal assistance was available from the

first hearing of the accused. The budget for legal assistance had increased by almost 50 per cent over the previous three years; it was clearly a priority for the Government, which would not fail to provide the necessary resources to implement the new measures.

65. **Mr. Sempot** (Belgium) said that prisoners were transferred to Tilburg prison in the Netherlands on the basis of a bilateral agreement that had been concluded between Belgium and the Netherlands on 31 December 2009. For the most part, Belgian law was applicable to the prisoners held there and any complaints they had about the prison regime were brought before Belgian courts. To date, some 15 prisoners had filed complaints about being transferred to the Netherlands, but the Belgian courts had ruled that the transfers had not violated their rights, particularly those enshrined in the Covenant. The prison was under Belgian management; the Belgian governor was in charge of prison discipline and regulated the use of means of restraint and coercion. The bilateral agreement provided that Netherlands rules on the use of means of coercion also had to be taken into account. Prison conditions in Tilburg were better than in the majority of prisons in Belgium. The journey from Brussels to Tilburg by public transport took one hour and fifty minutes, which was significantly less than the journey time from Brussels to many prisons in Flanders. For the authorities, the use of Tilburg's 500 prison places was a success, as it had reduced overcrowding in Belgian prisons to a more acceptable level.

66. Most of the general principles and provisions of the Dupont Act had entered into force. The remainder of the Act had yet to be implemented because of the need for staff training and instruction in the Principles Act. Time was also needed to assess the outcome of a series of ongoing pilot projects to examine whether the Principles Act was applicable on the ground. It had become clear that several amendments were necessary, which justified the relatively long transition period the authorities had allowed. The majority of the documentation for the full implementation of the Act had been prepared and should have entered into force in 2010. The current political hiatus had interrupted that process. The right to lodge complaints would be implemented once the other provisions of the law had entered into force.

67. The authorities recognized that overcrowding in some Belgian prisons was at unacceptable levels and was, in some cases, exacerbated by obsolete infrastructure. Under the prisons master plan, new facilities would be built, an extensive renovation programme would be completed, and some prisons, such as Forest prison, would be demolished and replaced. By 2016, there should be sufficient prisons providing acceptable conditions. The authorities were also focusing on alternatives to deprivation of liberty.

The meeting rose at 6 p.m.