Fédération internationale de l'Action des chrétiens pour l'abolition de la torture
International Federation of Action by Christians for the Abolition of Torture
Federación Internacional de la Acción de los Cristianos para la Abolición de la Tortura

Action by Christians for the Abolition of Torture - French-speaking Belgium

FIACAT and the ACAT of French-Speaking Belgium

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The International Federation of Action by Christians for the Abolition of Torture, FIACAT, is an international non-governmental human rights organisation, set up in 1987, which works towards the abolition of torture and the death penalty. The Federation brings together around thirty national associations, the ACATs, across four continents.

FIACAT represents its members before international and regional organisations

FIACAT enjoys Consultative Status with the United Nations (UN), Participative Status with the Council of Europe and Observer Status with the African Commission on Human and Peoples' Rights (ACHPR). FIACAT is also accredited to the International Organisation of la Francophonie (OIF).

By referring the concerns of its members working on the ground to international bodies, FIACAT's aim is to encourage the adoption of relevant recommendations and their implementation by governments. FIACAT works towards the application of international human rights conventions, the prevention of torture in places of detention, and an end to enforced disappearances and impunity. It also takes part in the campaign against the death penalty by calling on states to abolish capital punishment in their legal systems.

To give added impact to these efforts, FIACAT is a founding member of several campaigning coalitions, in particular the World Coalition against the Death Penalty (WCADP), the International Coalition against Enforced Disappearances (ICAED) and the Human Rights and Democracy Network (HRDN).

FIACAT builds the capacities of its network of thirty ACATs

FIACAT helps its member associations to organise themselves, supporting them so that they can become important actors in civil society, capable of raising public awareness and having an impact on the authorities in their country.

It coordinates the network by promoting exchanges, and proposing regional and international training events and joint campaigns, thus supporting the activities of the ACATs and providing them with exposure on an international scale.

FIACAT is an independent network of Christians united in the fight for the abolition torture and the death penalty

FIACAT's mission is to raise the awareness of Churches and Christian organisations about torture and the death penalty and to convince them to act to have them abolished.

Action by Christians for the Abolition of Torture (ACAT) of French-Speaking Belgium is a Belgian non-profit organisation, established in 1985. In accordance with Article 5 of the UDHR, like other people and organisations committed to the abolition of torture and the death penalty, the association aims to:

- Raise the awareness of Christians and Churches about this issue in an ecumenical fashion;
- Encourage them to use all spiritual means, primarily prayer, to banish all cruel, inhuman and degrading treatment;
- Run and support any non-violent action for the benefit of the victims of torture and the death penalty, without discriminating between countries, political regimes or ideological or religious affiliations;
- Put in place education and awareness campaigns in Belgium, to prevent and condemn any act which could lead to torture or the death penalty.

Introduction

1. According to the recommendations accepted by Belgium during its Review in May 2011, our organisations would like to submit to the Council their observations on the situation of detainees, asylum seekers and refugees, as well as on police violence. We would also like to draw the Council's attention to the importance of implementing a national mechanism for the prevention of torture.

2. In its government agreement of 9 October 2014, the new federal government made commitments relating to certain recommendations which had been accepted in 2011. This is the case in particular for the ratification of the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (OPCAT) and the suggested responses to prison overcrowding and the situation of detainees. Other announcements in this agreement continue to concern ACAT Belgium and FIACAT. The return of foreign minors to detention centres and the impossibility of identifying police force representatives are particularly concerning. These proposals should be amended in accordance with Belgium's international commitments on human rights.

I. Ratification of OPCAT and implementation of a National Human Rights Institution.

3. Belgium is one of the last four countries in the European Union not to have ratified the OPCAT, which it signed on 24 October 2005. The complex governance system of the federal and federated bodies is one possible explanation, but it should not be a justification for failing to ratify.

4. The competence for monitoring places of detention stated in the *Paris Principles* should be guaranteed by a commission or National Human Rights Institution (hereinafter NHRI), which has still not been created. Belgium has at its disposal a number of specific institutions in the domain of human rights but none of them satisfy the aforementioned Principles.

5. During the 2011 UPR, Belgium accepted the recommendations on the OPCAT[1] and the creation of a NHRI in accordance with the Paris Principles.[2] Despite the commitments of the government, initially in 2011, and their resigning of the agreement on 9 October 2014, no tangible progress has been recorded to date.

6. Currently, prison monitoring relies on a mechanism connecting a Central Prison Monitoring Council (CCSP) with monitoring bodies in each establishment (monitoring commissions). They are responsible for monitoring the treatment of the detainees and ensuring that the regulations in force are respected. Their operation is nonetheless defective. In its 2008-2010 annual report, the CCSP raised several serious concerns about its own independence and the effectiveness of its actions, in particular as regards the irregularity of the appointment of its members and a lack of operating funds. The commissions are comprised of volunteers who receive no training. They regularly experience difficulties in their relationships with prison authorities and are often over-burdened by their workload. A clear sign of a lack of resources and recognition is that no activity reports have been published since 2010. In 2010 the Federal Intermediary declared that the independence of the institution was compromised. The European Committee for the Prevention of Torture (CPT) indicated, at the end of

1 Recommendations made by the Czech Republic, the United Kingdom, Norway, Spain, Brazil, Ecuador and Palestine (Paragraphs 100.1, 100.2 and 100.6 of the Report of the Working Group, A/HRC/18/3)

2 Recommendations made by India, the United Kingdom, Poland, Egypt, Afghanistan, Portugal, Australia, Norway, Spain, the Democratic Republic of Congo, Palestine, Ecuador, Djibouti and the Russian Federation (Paragraph 100.9 of the Report of the Working Group, A/HRC/18/3)

its visit in April 2012, the "urgent need" for the CCSP and the local commissions to be given the necessary funds to carry out their mission.

7. The new government agreement, which promises the creation of a "National Human Rights Mechanism", mentions neither timescales nor methods, nor the characteristics of the mechanism. The Justice Plan of March 2015 nevertheless specifies that the planned institution will be attached to the Chamber of Representatives to ensure its independence from the Federal Public Service (SPF) Justice. No contact was made with civil society at that time.

FIACAT and ACAT Belgium recommend that Belgium:

- **Ratify the OPCAT and accept the double monitoring mechanism for all places of detention linked to it;**
- **Uphold its commitment to create a NHRI in accordance with the Paris Principles: independent and pluralist, self-directed in its actions and provided with sufficient financial resources to carry out all of its responsibilities;**
- **Work closely with civil society to implement these developments.**

II. Respect for the dignity and human rights of persons deprived of liberty

8. Detention conditions are problematic in Belgium and are regularly described as cruel, inhuman or degrading treatment by international bodies. During the 2011 UPR, they were the subject of 14 recommendations,[3] all accepted by Belgium.

1. Prison Overcrowding

9. Belgium suffers severe prison overcrowding which has been the subject of dramatic and recurrent reports, in particular during the CPT visits. Following its visit in April 2012, the CPT highlighted that "Prison overcrowding not only involves despicable detention conditions, combining a lack of privacy with violence, but it also deprives prisoners of certain fundamental rights".

10. Belgium has been condemned many times over this issue. A recent judgment[4] by the ECtHR stated that prison overcrowding in Belgium, as well as hygiene problems and the dilapidation of prison establishments, are structural in nature. These detention conditions, aggravated by reduced access to healthcare, have a marked negative impact on the health of the detainees.[5]

11. To improve the deplorable health situation of these detention centres, in 2008 Belgium committed to an ambitious prison facility plan, the "Masterplan", intended to increase prison capacity from 8 500 to 10 200 places by 2016. Progress can be seen in the implementation of this plan but the projected schedules remain significant. The capacity of Belgian prisons on 1 March 2014 was 9 592 places (for a total of 11 769 detainees on the same date). Moreover, the effects of this measure remain limited for the time being: between 2011 and 2014 the capacity of Belgian prisons increased by 719 places but the number of detainees increased by 801 people. The rate of overcrowding (23%) remains very high, and the slight decline in 2014 - after 10 years of increase - is still awaiting confirmation. In 2013 Belgium was ranked the 4th country with the most overcrowded prisons among the countries in the Council of

3 Recommendations of Austria, the Czech Republic, Australia, Djibouti, Chile, Ecuador, Algeria, the United States, Sweden, Spain, Slovakia, the Islamic Republic of Iran and Thailand (Paragraphs 100.21, 100.35 to 100.42, 100.44, 100.46, 100.47, 101.22, and 102.13 of the Report of the Working Group, A/HRC/18/3)

4 ECtHR, Vasilescu v Belgium, 25 November 2014

5 Health in Prison, report of the association of French-speaking visitors to prisons in Belgium, Trait d'union No. 5, February 2015

Europe.[6] The number of people in preventive detention is particularly high and represents 36% of all detainees.

12. To improve this situation, Belgium is prioritising the facilities aspect of the issue. Yet numerous studies have shown that prison expansion is a distraction and that the evolution of prison populations depends on the criminal justice policies in place (limiting preventive detention, expanding the criteria for conditional release, guidance for detainees, etc.). Documented in detail in the Court of Audit report of December 2011, "Measures against Prison Overcrowding", this analysis was shared with the CPT which in turn indicated, in its report in April 2012, that the provision of supplementary prison places was not an adequate solution to the problem of prison overcrowding and that a more comprehensive range of solutions should be established. Moreover, many stakeholders in the prison system also note that the creation of very high-capacity prisons with high levels of security tend to severely limit human contact. Similarly access to medical care, sports, and cultural and professional training activities is highly unequal between establishments and generally insufficient.[7] Yet these contacts and these services are necessary for creating humane detention conditions, reducing conflict and enabling eventual reintegration into society.

13. The government agreement takes into account these warnings, by committing to carry out the Masterplan. It recognises that "the fight against prison overcrowding cannot be limited to increasing the number of places but should be combined with other measures". It evokes, in parallel to the extension and renovation of the prison infrastructure "open or semi-open initiatives in the future" or "for the least serious offenses [...] work sentences, electronic monitoring or independent probation so that a prison sentence is effectively used as a last resort".

14. The provisions intended to toughen sentences and reduce the possibility of conditional or early release do however contradict this resolution. As such the Law of 17 March 2013 increased the minimum detention duration for perpetrators of serious crimes and objectively limited the possibility of obtaining conditional release. The government agreement envisages the reestablishment of a minimum sentence; the new Justice Plan confirms that judges can pass minimum sentences of up to 20 years. However, the ECtHR has already recognised that minimum sentencing can be equivalent to inhuman and degrading treatment, in that it takes away the hope of reconsideration and future liberation.

2. Minimum Service in Prison Establishments

15. Detention conditions are worsened by frequent strikes by prison staff, when no minimum service system is in place. The lack of staff during strikes leads to numerous additional restrictions being imposed on the detainees (cancelling of walks, telephone calls, showers, visits, canteen services, attorney visits, etc., meals served once a day, only emergency medical care, etc.). Belgium is one of only two countries in the Council of Europe not to provide a minimum service. During the 2011 UPR, Belgium committed to resolving this situation.[8]

16. This shortcoming was the subject of particular observations by the CPT during its visits in April 2012 and September and October 2013. On the basis of this, the CPT reiterated its recommendation, first communicated to the Belgian authorities in 2005, to implement a "guaranteed service" in all prison establishments. In a letter to the SPF Justice in March 2014 the CPT demanded that Belgium

6 2013 Edition of the Annual Penal Statistics of the Council of Europe, February 2015

7 Services offered to detainees in Wallonia and Brussels prison establishments, 2013-2014 Report carried out by the Concertation des Associations Actives en prison, April 2015

8 Recommendation made by Slovakia (Paragraph 100.47 of the Report of the Working Group, A/HRC/18/3)

implement this and submit a detailed plan to it within six months. This obligation, with the creation of a security corps and a national centre for electronic surveillance, can be found in the government agreement and was mentioned by the Minister for Justice in his policy announcement on 13 November 2014. However, to this day no concrete plan has been published and the minimum service is not in place.

17. In December 2014, detainees who felt that their fundamental rights had been disregarded following the prison guard strike at Ittre were successful in legal action before the court of first instance of Brabant Wallon, which ruled that the Belgian state must reinstate the usual prison regime without delay. Sixteen similar decisions were returned following individual requests, with the court ordering the state to pay EUR1000 in penalties for each day of delay.

3. Detention of people with mental health problems

18. Belgium's failure regarding the detention conditions of people with mental health problems was first highlighted by the CPT in 1993. Rather than being housed in adequate treatment facilities, detained people stay in cells in the psychiatric wings of ordinary prisons, for an undetermined period, often for relatively minor offenses. The very fact of staying in overcrowded prisons, in contact with convicted criminals, in detention conditions which are often very difficult, weighs on the mental states of these people and reduces their chances of improving and reintegrating back into society in the future.

19. Belgium has been condemned multiple times by the ECtHR[9] which highlighted the existence of a structural problem surrounding the issue.

20. At the start of 2015, the number of mental health patients in prison rose to almost 1 100 people, which represents 10% of the total prison population (a proportion which has remained constant over the past few years) and more than a quarter of them as a result of a court decision. The places offered by the new establishments included in the Masterplan (Legal Psychiatric Centre (CPL) of Ghent opened in May 2014 with a capacity of around 270 patients; the CPL of Antwerp which is intended to welcome 180 mental health patients from 2016) only partially alleviate the problem (40% of the existing need covered).

21. The Law of 5 May 2014 on imprisonment, known as the Anciaux Law, provides for notable advances in the legal status of mental health patients and the care provided during detention. It intends to amend the previous system, which was never implemented due to a lack of funds, but it will not come into force until 2016. The 2014 government agreement includes positive developments on the subject: "particular attention [...] paid to detainees with mental disabilities"; "sufficient budgetary funds to guarantee that the new legislation on imprisonment be carried out"; a multidisciplinary commission "invited to propose amendments to the law on imprisonment with a view to systematically assessing mental health". These elements are specified in the Justice Plan. The allocation of the funds necessary to effectively improve the situation of mental health patients however remains to be confirmed. Indeed, neither the agreement nor the plan call for prison psychiatric wings to be abolished.

FIACAT and ACAT Belgium recommend that Belgium:

- **Finish renovating the prison infrastructure without delay as provided for in the Masterplan, prioritising the smallest and lowest security structures.**
- **End endemic prison overcrowding by prioritising action on adequate criminal justice policies (limiting preventive detention, increasing the possibility of conditional release,**

9 See for example: ECtHR, Smits and others v Belgium; Vander Velde and Soussi v Belgium and the Netherlands, 3 February 2015

ending prison confinement, etc.).

- **Ensure detainees have satisfactory access to medical care and activities enabling them to prepare for reintegration.**
- **Urgently implement a minimum service in the event of prison staff strikes.**
- **Ensure that detained mental health patients are treated with dignity by the institutions, prioritising care and therapeutic activities aimed at their reintegration; end confinement in prison (abolishing the psychiatric wings).**

III. Respect of the fundamental rights of asylum seekers and refugees

1. Exercising the right of asylum

22. In 2014 Belgium recorded 17 213 applications for asylum. This figure shows a rise after three years of sharp decline. Of the 13 132 applications for asylum examined by the Commissioner General for Refugees and Stateless Persons (CGRA), 6 146 positive decisions (46.8%) were made.

23. Since Europe welcomes a continuous influx of refugees, the new Belgian government has a restrictive approach to immigration. It prioritises a "strict returns policy" and the "fight against abuse". The situation of asylum seekers and refugees is, as a result, barely distinguished from that of other migrants. The consequences of this announced strengthening of Belgian immigration policy is concerning, in particular in light of 2011 UPR, which made numerous recommendations which were accepted by Belgium.[10] They relate to improving asylum procedures, in terms of legal assistance, transparency and efficiency of applications, and to the living conditions of asylum seekers while their application is being examined.

24. The government's current priorities are concerning when faced with the predicted rise in asylum applications resulting from the increase in the number of conflicts and humanitarian crises in the Middle East and Africa, and they fail to ensure the effectiveness of the right of asylum. This desired to accelerate procedures threatens the minimum reasonable timescales which should guarantee migrants that their fundamental rights will be respected, in particular that of defence. The ECtHR also condemned Belgium for the absence of an effective right of appeal for asylum seekers. [11] This failing as well as the lack guaranteed appropriate living conditions during the procedure were highlighted by the Avocat-General of the European Court of Justice in September 2014.[12]

25. As regards accommodation and admission conditions, the past few years have been marked by multiple decisions to close centres, justified in part by the observed decline in the number of applications. However, the increase in applications - confirmed in the first months of 2015 - will quickly bring the system to its limits. The government agreement highlights however that the individual admission allows work on a case by case basis and guarantees the person's autonomy. Nevertheless, on the grounds that asylum application procedures have been made shorter, it announced a reduction in the number of accommodation places and the reservation of individual accommodation solutions for certain "vulnerable groups", making this the exception rather than the rule.

10 Recommendations made by Thailand, Norway, the United Kingdom, Indonesia, the Czech Republic and Nigeria (Paragraphs 100.51 to 100.56 of the Report of the Working Group, A/HRC/18/3)

11 ECtHR, Singh-Singh and others v Belgium, 2 October 2012

12 Case C 562/13

2. Detention of Asylum Seekers

26. During the 2011 UPR, Belgium accepted the recommendation[13] to end the systematic detention of asylum seekers on the borders and to limit detention while the application is examined to exceptional cases. It has however done nothing to comply with this. In application of the Dublin Regulation, Belgium continues to systematically detain asylum seekers, sometimes for up to nine months, throughout the procedure. Furthermore, the Constitutional Court (16 January 2014) and the Court of Cassation (21 January 2014) have demonstrated that the Immigration Service had insufficient justification for decisions to detain for the purpose of removal.

27. The government agreement has settled for promoting the acceleration of the inquiry timescales. It sets out a plan, confirmed since by the Secretary of State for Asylum and Immigration, for the extension of closed detention centres.

28. Many UPR recommendations accepted by Belgium relate to the living conditions, access to legal assistance and the individual complaint mechanism in closed detention centres for asylum seekers and irregular migrants.[14] In 2015 the situation in these detention centres remains a concern:

- The detention regime is particularly strict, sometimes more so than in prison establishments;
- Access to medical and psychological care is limited;
- Pressure is exerted to dissuade detainees from submitting complaints;
- Access to legal information and assistance is incomplete and unequal depending on the centre, the waiting list for these services is sometimes incompatible with the deadlines for asylum applications.

3. Detention of Foreign Minors

29. The law on access to the territory, stay, establishment and return of foreigners authorises the detention of foreign minors in closed detention centres, while they are accompanied by their family who are residing without authorisation. The only restrictions: the premises should be suitable and the duration should be "as short as possible". Yet Belgium has been condemned three times by the ECtHR for the way in which it has detained children, likening the conditions to inhuman or degrading treatment, even when children were not separated from their parents.[15]

30. Since 2008, families with minor children have not been detained in closed centres. Unfortunately the government agreement, recalled numerous times by the Secretary of State for Asylum and Immigration, provides for this to be reversed, by arranging places "for families" in closed detention centres, 127bis - already the subject of many ECtHR orders for inhuman and degrading detention conditions. This major regression collides with Belgium's commitment before the Court of Human Rights in 2011 to end the detention of minors in prisons intended for adults[16] and to pay particular attention to the rights of child asylum seekers, in particular through providing shelter, responding to their specific needs and protecting them from violence and degrading living conditions.[17]

13 Recommendation made by Mexico (Paragraph 101.25 of the Report of the Working Group, A/HRC/18/3)

14 Recommendations made by Sweden, the Czech Republic and the United Kingdom (Paragraphs 100.43, 100.55 and 101.24 of the Report of the Working Group, A/HRC/18/3)

15 The most recent order: ECtHR, Kanagaratnam and others v Belgium, 13 December 2011

16 Recommendation made by the Islamic Republic of Iran (Paragraph 101.22 of the Report of the Working Group, A/HRC/18/3)

17 Recommendations made by Thailand, Norway and Indonesia (Paragraphs 100.51, 100.52 and 100.54 of the Report of the Working Group, A/HRC/18/3)

4. Failure to respect the principle of non-refoulement and the risk of torture

31. Contrary to the affirmations in its mid-term report, Belgium has not applied the principle of non-refoulement stringently, as it was required to do by a recommendation that it accepted during the 2011 UPR.[18] Current practices allow the extradition of people threatened by torture under the condition of diplomatic assurances. Some recent high-profile cases and recent rulings illustrating this position include:
- the ECtHR sentences in 2011 (M.S.S. v Belgium and Greece), in 2012 (M.S. v Belgium), in 2014 (Trabelsi v Belgium) and the cases currently under consideration (Abdellah Ouabour v Belgium);
- The return of protesters to the Democratic Republic of Congo, where their freedom of expression and their safety are not guaranteed (the return of a group of 10 people in November 2014).

32. The principle of non-refoulement is also violated by recourse to a list of so-called "safe countries". It is known to contain a list of countries in which asylum seekers will supposedly not be in danger and therefore for whom accelerated procedures (15 days rather than 3 months) - refusal without the right of effective appeal (until the decision of the Constitutional Court in January 2014) - are applied. Currently, this list comprises six countries and the government has started proceedings to add another six. The content of this list already raises questions since the dangers and human rights violations are attested to by NGOs and international observers in many of the countries which it includes. Even the principle of this list is problematic because it denies the right for asylum applications to be examined on an individual basis.

FIACAT and ACAT Belgium recommend that Belgium:

- **Adapt its procedures for dealing with the right of asylum to guarantee and facilitate its full application, taking particular care over the effectiveness of the right of appeal;**
- **Ensure that accommodation conditions for asylum seekers respect their dignity, making individualised solutions the rule;**
- **Only detain asylum seekers in exceptional cases and take concrete measures to reduce this to the minimum time necessary;**
- **Improve the living conditions, access to health care and legal assistance in all closed detention centres for asylum seekers;**
- **End the detention of minors and their families;**
- **Stringently apply the principle of non-refoulement and ban extradition to countries where the risk of torture is recognised - even in exchange for bilateral diplomatic guarantees.**
- **End the transfer, without their agreement, of convicted prisoners to countries where they are at risk of inhuman or degrading treatment;**
- **End the use of the list of "safe countries".**

IV. The fight against police violence

33. Despite the difficulty of establishing statistics on the subject, a number of elements bear witness to the chronic nature of police violence in Belgium.

34. The Police Monitoring Permanent Committee (called Committee P) is officially the "completely external and neutral body responsible for monitoring the police services and special investigation services". Despite this stated ambition, this body does not have the guarantees of independence or

18 Recommendation made by Indonesia (Paragraph 100.57 of the Report of the Working Group, A/HRC/18/3)

impartiality required: its enquiry service is in fact completely comprised of former police officers. The government agreement does not contain any initiatives to resolve this situation.

35. Notwithstanding this significant reservation, from the work of the Committee P over the past years, around 20% of the complaints filed against the police related to illegal acts of violence, beatings or injuries (572 in 2013). In 2013 almost a quarter of the 128 enquiries into acts of violence against people were entrusted to the enquiry service of the Committee P. Among the 49 complains relating to administrative arrest, almost half related to the use of disproportionate violence by the police. In fact, at least 18 of the 39 acts of violence recognised in criminal court between 2009 and 2012 were committed against an "under-control" person who did not present or no longer presented a danger.

36. The first annual report (2014) from the observatory on police violence indicated the seriousness and frequency of violent misdemeanours among some groups, certainly limited but real, in the police forces. In 41% of cases the victims did not submit complaints to the Committee P. The press also regularly cover violence involving members of the police.

1. Fundamental rights training for police personnel

37. No noticeable progress has been made regarding the recommendations accepted by Belgium during the 2011 UPR in relation to improving human rights training for police officials and bodies.[19] This wait-and-see attitude is confirmed in the government agreement which, even if it does outline some priorities related to the quality of police training, does not include any improvement to the integration of fundamental rights training. This same agreement further provides for certain police tasks to be handed over to the army or private security companies, without the necessary prerequisites in terms of training or expectations other than the legal requirements as regards behaviour.

2. The fight against impunity in the event of mistreatment

38. Despite the partial nature of the reports produced by the Committee P, we can see that of the 45 members of the police force found criminally guilty of violence in 2009 and 2012, 28 were suspended and one was given a prison sentence (in comparison, of all of the sentences in Belgium in 2011-2013, almost 20% of sentences were custodial sentences and less than 6% were suspensions). Out of 39 cases where the members of the police force were found guilty, the Committee P only made 6 disciplinary decisions, often of a not very serious nature: official reprimands, very low salary deductions, etc. (for an equivalent number of criminal convictions, the number of disciplinary sanctions for violence are almost four times less than for forgery).

39. The recommendations accepted by Belgium during the 2011 UPR on the outcome of complaints against the police resulting in proportionate sanctions[20] remain completely relevant today, and even more so does the need for heavy sanctions for representatives of the state's authority who are responsible for abuse or mistreatment.[21]

40. The government agreement does not call for any actions to resolve the problem of unjustified violence committed by the police forces. It contains, to the contrary, a commitment to find "a solution to the manifestly unjustified complaints against police personnel and other members of the security services. All police officers should at all times have the greatest protection as they exercise their duties. To this end, among others, their identity will be protected". This announcement is problematic in relation to the practice of submitting "strategic" complaints used by certain members of the forces, the

19 Recommendations made by Morocco and Austria (Paragraphs 100.19 and 100.20 of the Report of the Working Group, A/HRC/18/3)

20 Recommendation made by Turkey (Paragraph 101.16 of the Report of the Working Group, A/HRC/18/3)

21 Recommendations by Ecuador (Paragraph 101.21 of the Report of the Working Group, A/HRC/18/3)

objective of which would be to intimidate witnesses and victims of police violence. The question of identifying police officers, by no longer permitting victims of police violence to name the perpetrators, poses an objective risk that the existing impunity will increase.

3. Prevention of violence during removal

41. Despite the recommendations accepted during the 2011 UPR on the application of a surveillance procedure to monitor forced removals,[22] procedures for the removal of foreign persons are regularly carried out violently, in particular in the case of forced returns.

42. The monitoring of these operations is ensured by the AIG (Algemene Inspectie/Inspector General for the Police Services), under the authority of the Minister for Home Affairs. The same applies to the services deciding to remove people (Foreign Office) and to those carrying it out (aviation police LPA BRUNAT). In its last published report (2011-2012), the AIG stated that it had not recorded any irregularity in the removal operations. It nevertheless formulated many recommendations aimed at improving the conditions of the operation, by taking into account the "human aspect" as well as the need to "act with care".

43. Few resources are in reality assigned to investigation: only two people are assigned to 100% of inspections, under unsustainable European financing. The consequence is a very low number of inspections: in 2011, 54 inspections for 8 941 removal procedures and 963 escorts; in 2012, 160 inspections for 9 605 removal procedures and an unrecorded number of escorts. Moreover the two people assigned to the inspections are on secondment from the federal police, preventing them from being independent, which they should by necessity be.

44. No steps seem to have been taken to strengthen the independence, impartiality and efficiency of the mechanism for monitoring removal procedures, even though the government agreement announced the desire to investigate forced returns more intensively. We can be legitimately concerned about the words of the Secretary of State in December 2014 advocating a results policy (increase in special flights, a "more efficient and better run" solution), without ever mentioning the humane conditions of these operations.

FIACAT and ACAT Belgium recommend that Belgium:

- **Improve the inclusion of the absolute prohibition of torture in the training of officials and all personnel responsible for enacting state authority (all security forces, military and prison personnel) as well as of the capacity of these people to identify situations of torture and other crimes as well as cruel, inhuman or degrading treatment.**
- **Take relevant measures to reinforce the monitoring and supervision mechanisms within the police force, in particular the Committee P and its investigation service, which should be composed of independent experts recruited from outside the police forces;**
- **Open in-depth and impartial investigations into all cases of alleged brutality, mistreatment and use of excessive force by agents of state forces; to follow up and sanction officials who are judged guilty of these infractions, by imposing appropriate punishments;**
- **Reinforce the independence of the monitoring mechanism for forced returns and to provide adequate funding;**
- **Ensure that the returns procedures are carried out without inhuman or degrading treatment, in complete respect of the person's dignity.**

22 Recommendation made by Indonesia (Paragraph 100.57 of the Report of the Working Group, A/HRC/18/3)