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**European Committee for the Prevention of Torture  
and Inhuman or Degrading Treatment or Punishment (CPT)**

# **Public statement concerning Belgium**

This public statement is made under Article 10, paragraph 2, of the European Convention for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment.

Strasbourg, 13 July 2017

## Public statement concerning Belgium

**adopted at the 93<sup>rd</sup> plenary meeting (July 2017) of the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) pursuant to Article 10, paragraph 2, of the Convention establishing the Committee**

### Introduction

1. The CPT has carried out ten visits to Belgium since 1993. In many respects, the co-operation which the Committee has been shown by the Belgian authorities in the course of those visits and in the implementation of its recommendations gives genuine cause for satisfaction. The Committee would like to welcome the efforts made over the years to strengthen the protection of persons deprived of their liberty in the country. The most recent periodic visit, which took place from 27 March to 6 April 2017, provided the opportunity to see further progress, including in the prison sector, which will be reflected in the future CPT report on that visit.

2. However, for 12 years, the CPT has consistently expressed its deep concern regarding the serious consequences which can result from industrial action by prison staff in Belgium. These consequences have a direct impact (for prolonged periods) on the detention conditions, health and security of the persons placed under their responsibility. They entail, in particular, almost continuous confinement of inmates in cells in conditions already deemed intolerable, serious disruption in the distribution of their meals, a dramatic deterioration of their personal hygiene conditions and conditions in cells, frequent cancellation of daily outdoor exercise, serious restrictions on their access to health care and a virtual halt to their contacts with the outside world (including with lawyers).

Such industrial action, which at times takes place without any prior notice and without any limit on the number of prison staff involved or the duration of the action, generally gives rise to a significant increase in tension in the establishments concerned. Further, the occurrence, during prison strikes, of several serious incidents, which in some cases have led to deaths, raises worrying questions about the ability of the authorities and those responsible for the industrial action to deal appropriately with the consequences.

During its many visits to the 47 Council of Europe member states over the last 27 years, the Committee has never observed a similar phenomenon, in terms of both the extent of the phenomenon in question and the risks involved.

3. Persons subject to a psychiatric detention measure (“*internement*”) are, on account of their particular needs, placed in an even more vulnerable situation during industrial action by prison staff. The CPT has also highlighted in its reports a number of general shortcomings in the care provided to these persons.<sup>1</sup> These same shortcomings prompted the European Court of Human Rights to conclude that there had been degrading treatment.<sup>2</sup> The lack of effective control of industrial action in prisons has caused further suffering and worsened the already uncertain conditions in which these persons find themselves pending the provision of appropriate care.

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<sup>1</sup> See, for example, paragraph 95 of the CPT report on its periodic visit to Belgium in 2013 (in French only).

<sup>2</sup> See the pilot judgment of the European Court of Human Rights of 6 September 2016 (which became final on 6 December 2016) in the *W.D. v. Belgium* case (in French only). The reason why the Court considered that there had been degrading treatment lies in the fact that such persons were being held for a prolonged period of time in a prison environment without being given treatment appropriate to their state of health. The Court held that this problem was structural in nature and called on the authorities to take the necessary measures to address it within two years.

## **Guaranteed minimum service and basic rights of persons held in prison establishments: the subject of ever more intense dialogue between the CPT and the Belgian authorities**

4. The question of establishing a service guaranteeing the basic rights of persons held in prison establishments (“guaranteed minimum service”) was raised in the CPT’s reports on the 2005, 2009, 2012 and 2013 visits in order to address the challenges referred to above.<sup>3</sup> The dialogue between the Committee and the Belgian authorities intensified still further with effect from March 2014 when, given the lack of any progress for many years, the CPT was obliged to initiate the procedure which could result in the exceptional measure of making a public statement, in accordance with Article 10, paragraph 2, of the Convention establishing the Committee.<sup>4</sup> In October 2014, the Committee was pleased to note that the introduction of a guaranteed minimum service in prisons had been included in the Government Coalition Agreement.<sup>5</sup>

5. However, the situation reached its peak almost two years later, between April and June 2016, when there was unusually severe strike action affecting most prisons in the French-speaking areas. For almost two months, prison, administrative and health-care staff were prevented from entering their workplace. The staff present in the establishments concerned was reduced in most cases to management staff assisted by a few health-care staff and prison officers. The police had to be mobilised once again and deal with the challenge facing them and others brought in to help out, of carrying out very specialised duties that they were not competent to perform. For the first time, the Belgian authorities were obliged to call on the armed forces to help the management and a handful of prison staff on the brink of exhaustion to ensure security in the prisons.

6. The CPT took prompt action by carrying out an ad hoc visit in May 2016. The Committee’s delegation visited the prisons of Huy, Ittre and Jamioulx, and the social defence establishment in Paifve, in each of which management staff were struggling to cope with the chaos caused by the strikes.

7. In June 2016, the President of the CPT went to Brussels for talks with Mr Koen Geens, Minister of Justice, attended by a representative of the Prime Minister. It emerged from these talks that action would be taken to ensure that the basic rights of prisoners were upheld in any future industrial action, in particular by means of a legislative initiative by the end of 2016.<sup>6</sup>

8. At its 92<sup>nd</sup> plenary meeting in March 2017, the Committee took note of the Belgian authorities’ new commitment to embark upon a more comprehensive project with social partners. The 2017 periodic visit was an opportunity to review the situation with the Minister and a large number of stakeholders, including senior public servants, senior representatives of trade union organisations, representative associations of prison directors, judges and prosecutors, police officers, lawyers, representatives of independent national institutions, representatives of the Central Prison Monitoring Council and local monitoring committees, members of NGOs and civil society. At times the views expressed were diametrically opposed, particularly as regards the introduction of a guaranteed minimum service in prisons and various matters relating to the status of prison staff.

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<sup>3</sup> These visit reports and the corresponding government responses are available (in French only) on the CPT’s website: <http://www.coe.int/en/web/cpt/belgium>.

<sup>4</sup> Article 10, paragraph 2, of the Convention reads as follows: “If the Party fails to co-operate or refuses to improve the situation in the light of the Committee’s recommendations, the Committee may decide, after the Party has had an opportunity to make known its views, by a majority of two-thirds of its members to make a public statement on the matter.”

<sup>5</sup> See [Government Agreement](#) of 9 October 2014, pages 122-123 (in Dutch and French only).

<sup>6</sup> See also the CPT’s [report](#) on the 2016 visit to Belgium and the [response](#) of the Belgian government (in French only).

In contrast, those with whom the delegation spoke were unanimous on one point: a “red line” had been crossed during the 2016 strikes. The general impression was that persons deprived of their liberty in the prisons concerned had, because of this action, been placed in conditions which could amount to inhuman or degrading treatment or lead to the aggravation of conditions already held to be incompatible with Article 3 of the European Convention on Human Rights.<sup>7</sup>

The information gathered by the delegation during the 2017 visit also suggested that, despite their considerable efforts, prison management and the few other members of the staff who were at work during the 2016 strikes did not have the resources required to ensure the physical and psychological integrity of remand or sentenced prisoners, and even less so those subject to a psychiatric detention measure. The death of one psychiatric detainee on 17 May 2016, after being violently attacked by a co-detainee in the psychiatric wing of Lantin Prison, once again raises concerns for the CPT, in the light of the new information gathered on the spot, about the excessive risks that can be incurred during such industrial action.

9. On the ground, during the 2017 visit, the situation was beyond dispute: frustration, demoralisation and a sense of having been abandoned were the main feelings expressed by the many people with whom the delegation spoke, whether they were prisoners or those responsible for looking after them. The delegation was also able to note that these strikes had left serious after-effects on the members of the various categories of staff. The delegation discerned genuine unease among certain prison staff whom it met, who felt that the 2016 industrial action had quite simply tarnished the image of the profession and had jeopardised the principle of exemplary conduct. Further, many felt that absenteeism among prison staff had increased significantly during the strikes and the difficulty in dealing with this phenomenon continued to put a huge strain on the day-to-day organisation of work.

### **Breaking the deadlock**

10. The CPT understands the distress experienced by some trade union representatives and prison staff when faced with working conditions which at times can be well below what is required to ensure decent standards for inmates in their charge. These concerns echo those which the Committee has been voicing for many years. As the CPT has regularly pointed out, prison staff carry out a fundamental and very specific public service role which should be recognised in terms of recruitment, training and working conditions that ensure that inmates are looked after appropriately. In any event, any solution should include the introduction of a service guaranteeing the basic rights of inmates. Establishing such a service flows directly from the responsibilities of the state towards persons whom it has deprived of their liberty and from the fundamental principle that a lack of available resources cannot justify detention conditions which infringe the rights of inmates.<sup>8</sup>

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<sup>7</sup> See the aforementioned [pilot judgment](#) of the European Court of Human Rights and, for example, the judgment of 16 May 2017 in the [\*Sylla and Nollomont v. Belgium\*](#) cases (in French only).

<sup>8</sup> See, in this respect, Rules 4 and 8 of Committee of Ministers Recommendation Rec (2006) 2 of 11 January 2006 on the [European Prison Rules](#) and Rule 74, paragraph 3, of the United Nations Standard Minimum Rules for the Treatment of Prisoners ([Nelson Mandela Rules](#)). See also paragraphs [24](#) and [25](#) of the report on the 2016 visit to Belgium.

11. Respect for the human dignity of all inmates should be the highest priority and should continue to guide the action being taken by the Belgian authorities. Greater attention should be focused on the vulnerable situation of persons held under psychiatric detention, awaiting care in appropriate facilities. It is imperative that, in future, in all circumstances:

- the security of all inmates, including those subject to a psychiatric detention measure, is guaranteed,
- inmates are at all times treated with humanity and respect,
- continuity of care is provided to those held under psychiatric detention, awaiting placement in an appropriate facility and to any other person suffering from psychiatric disorders in prison,
- inmates have unrestricted access to general and specialist medical care including, if absolutely necessary, in a hospital,
- meals (including one hot meal) are prepared and distributed at set times every day,
- access to an outdoor exercise area is granted for at least one hour per day,
- conditions for maintaining inmates' personal hygiene are guaranteed, with access to showers at least twice a week, and cells are kept clean,
- inmates' continuity of contacts with the outside world is maintained by telephone and post, and by means of weekly visits (in addition to any contacts with lawyers).

12. **The CPT considers that failure to comply with these requirements may result in a large number of inmates being subjected to inhuman or degrading treatment, or the aggravation of situations already characterised as intolerable, endangering the health and life of inmates and compromising the security of the establishments concerned.** The lack of concrete progress over many years in establishing a viable system for these rights to be upheld in all circumstances, in particular in the context of industrial action by prison staff, is a serious failure to co-operate with the Committee, about which successive Belgian governments have made their views known on numerous occasions. For these reasons, the CPT has had no choice but to make this public statement, pursuant to Article 10, paragraph 2, of the Convention establishing the Committee.

In issuing this statement, **the CPT calls upon the Belgian authorities and all stakeholders, in particular the social partners, to assume their responsibilities once and for all and find quickly an appropriate solution to this exceptionally serious problem which should not arise in a Council of Europe member state.** The fact that the relevant consultation processes are under way or about to start provides an excellent opportunity in this context.

In addition, **the Committee strongly encourages the Belgian authorities to step up their efforts to transfer at the earliest opportunity those persons subject to a psychiatric detention measure to facilities where they can be given appropriate psychiatric care, especially as they are particularly vulnerable when industrial action is taken by prison staff.**

Lastly, the CPT wishes to recall that the recommendations it has made in the past are above all a means of helping the government and everyone concerned, including at legislative and judicial level, to make the necessary changes. In furtherance of its mandate, the Committee is fully committed to continuing and intensifying its dialogue with the Belgian authorities.