

Submission to the UN Human Rights Council for the 3rd Universal Periodic Review of Belgium

Submitted by the Board of the Belgian Federal Institute for the Protection and Promotion of Human Rights, as represented by its Chair, Prof. Olivier De Schutter, and its vice-Chair, Prof. Eva Brems

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This submission concerns a single issue: the creation of a new national human rights institution (NHRI) at the federal level in Belgium.

Context:

During the 2nd UPR of Belgium, the government accepted recommendations to establish, before the end of its mandate, a national human rights institution in compliance with the Paris Principles.

Belgium has, at the federal, regional and inter-federal levels, a number of sectoral institutions whose mandate and structure correspond to those traditionally assigned to NHRIs, and with powers in specific sub-field of human rights. One of these, UNIA, the inter-federal equality body, was accredited by GANHRI as an NHRI with B status under the Paris Principles.

Yet an NHRI with a broad human rights mandate was lacking in Belgium.

New development:

A framework for such an NHRI was created with the Act of 12 May 2019 ‘instituting a Federal Institute for the protection and promotion of human rights’. The Act was published in the official Gazette on 21 June 2019, and entered into force on 1 July 2019.

The mandate of the Institute includes all federal matters relating to fundamental rights, except those that are dealt with by sectoral bodies for the promotion and protection of human rights.

The mandate includes acts and omissions of public authorities as well as private bodies and individuals.

The Institute is mandated

- to produce advice, recommendations and reports to government authorities
- to promote the alignment of rules and actions with international human rights instruments
- to follow the implementation of international human rights obligations of Belgian authorities
- to promote the ratification of new international human rights instruments
- to collaborate with UN bodies and the bodies of regional human rights organisations

- to collaborate with human rights bodies at the level of the federated entities in Belgium, and with civil society organisations active in the field of human rights
- to promote fundamental rights, amongst others by sensitizing public opinion and contributing to human rights education
- to bring violations of fundamental rights before the Council of State and the Constitutional Court

An individual complaint procedure is not provided for.

The Act specifically states that the Institute acts ‘in full independence, conform the Paris Principles’. It is the intention of the lawmaker, as well as of the Board of the Institute, to obtain accreditation as an NHRI with ‘A’ status under the Paris Principles.

The Act provides a perspective of inter-federalisation through a co-operation agreement between the federal and federated entities.

After a public call for candidates, the Chamber of Representatives appointed the first Board of the Institute in July 2020, respecting gender and language quota as provided for in the Act, and conform the Act, including members with a background in academia, the judiciary, civil society and social partners.

Provisions were also made for a budget and office space.

At the time of writing, the Board is in the process of setting up the Institute, with a view to its being operational as soon as possible.

Points of attention for the Human Rights Council:

We emphasize the importance of the anticipated inter-federalisation through a co-operation agreement. It is important to conclude this co-operation agreement as soon as possible, for several reasons:

- in order for the scope of action of the Institute to be sufficiently broad to do justice to the interdependence and indivisibility of human rights
- in the interest of rights holders’ needs for low-threshold and transparent human rights bodies and human rights information
- to facilitate co-ordination of the work of the Institute with that of sectoral human rights bodies at the federal, regional and inter-federal levels. The Act of 12 May 2019 in this regard provides for a Concertation Council to be led by the Institute, yet suspends its creation (even at the federal level only) until after inter-federalisation

We kindly ask the members of the Human Rights Council to support our call to the Belgian government to take this important step to complete the legal architecture that will guarantee an effective and independent NHRI.