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Racism, Xenophobia and Related Intolerance

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Franet National Contribution to the Fundamental Rights Report 2022

BELGIUM

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Policy and legal highlights 2021

Franet country study: policy and legal highlights 2021	
Issues in the fundamental rights institutional landscape	The secretariat of the Federal Institute for the protection and promotion of Human Rights was engaged in February 2021 , allowing the institute to start its substantive groundwork.
EU Charter of Fundamental Rights	In 2021, 579 Flemish Court judgments and 655 French Court judgments referred to the EU Charter of Fundamental Rights. In one case, the Constitutional Court concluded that the ban on slaughter without stunning does restrict the right of groups to express their religious beliefs, however, finds that it meets a pressing societal need and pursues the legitimate aim of protecting animal welfare and is therefore proportionate.
Equality and non-discrimination	In November 2021, the national action plan of the fight against gender violence 2021-2025 was adopted, including specific measures to improve reception of LGBTI+ people in reception centres for asylum seekers and on centres for victims of sexual violence.
Racism, xenophobia & Roma integration	The federal Parliament set up a Special Commission in charge of research on Congo Free State and the Belgian colonial past in DR Congo, Rwanda and Burundi, its impact and the consequences to be given to it. On 17 September 2021, the Flemish Government decided to prolong the Roma stewards (Buurtstewards) project in Gent, Antwerp, Sint-Niklaas and Brussels (VGC) for another year (2022). The project, which started in 2012, receives annual subsidies from the Flemish Government that amount to 300,000 euros divided between the cities of Ghent, Sint-Niklaas, Antwerp and the Flemish Community Commission (VGC).
Asylum & migration	In 2021, 215 people had their international protection status revoked in Belgium.
Data protection and digital society	In 2021, Belgium enacted legislation to allow the use of a Covid-safe ticket (CST) in many sectors in the country. A bill is currently being discussed to guarantee transparency regarding the use of algorithms.
Rights of the child	While classes were suspended due to confinement measures, Flanders ensured that schools still received children who would be vulnerable in their homes (vulnerability was assessed by schools together with psychosocial medical centres and parents). This also applied in Brussels/Wallonia for children in specific social situations (such as those who were under the care of the State).
Access to justice, including	Discussions are ongoing relating to the proposal to reform the Code of Criminal Procedure to provide for the audiovisual recording of specific auditions. Currently, it is mandatory to record the interview of minors or

victims of crime	vulnerable adults, victims or witnesses of certain offences of sexual character, such as rape, prostitution of minor, etc. A proposal submitted in 2019 aims at expanding the recording of such auditions for all adults, victims or witnesses in such cases.
Convention on the Rights of Persons with Disability	The constitutional amendment of 17 March 2021 inserted article 22ter in the Belgian constitution, stating that every person with a disability has the right to full inclusion in society, including the right to reasonable accommodation.

Chapter 2. Racism, xenophobia and related intolerance²² by Aleydis Nissen and Rik Raedschelders

2.1 Findings and methodology of research, studies, or surveys on experiences of ethnic discrimination, racism and hate crime

No less than 40 countries commented on the need to tackle racism and xenophobia in Belgium's Universal Periodic Review by the United Nations Human Rights Council of May 2021.²³ For example, the Democratic Republic of the Congo urged Belgian political leaders not to use racism and xenophobia in the exercise of their functions. China asked to combat discrimination and hate crimes against 'Asian' people and people of 'Asian' descent and other minorities.²⁴ Indonesia requested to investigate incidents including those experienced by the 'Asian' community in relation to the COVID-19 pandemic. More hate crimes have been reported since the beginning of the COVID-19 pandemic, targeting in particular people of perceived 'Asian' origin.²⁵ For example, in June 2020, a Belgian customer told another Belgian customer of Chinese descent that she was 'not Belgian' and 'had to go back to her country'.²⁶ The Movement Against Racism and Xenophobia (MRAX) pointed out the many facets of anti-Asian racism and prejudice in an interview in the series 'There is not just one form of discrimination'. In this interview, a Belgian woman of Japanese descent recalls many racist incidents during her life. MRAX supports the League Against Asiaphobia (Ligue Contre l'Asiaphobie (LCA)) in the French-speaking part of Belgium which was founded at the beginning of 2021.²⁷ The LCA was originally only a French organisation.²⁸

²² The authors of this chapter – Aleydis Nissen and Rik Raedschelders – wish to thank Mohamed Barrie, Heidi Mertens, Raf Njotea, Pieter-Paul Verhaeghe, Evodia Uggi and Emilie Van den Broeck for their input. The authors are solely responsible for any mistakes.

²³ Belgium, United Nations (UN) Human Rights Council (2021), *Report of the Working Group on the Universal Periodic Review, A/HRC/48/8*, 14 July 2021.

²⁴ Belgium, The concept 'Asian' is often considered to be overly generic because it mashes together more than half of the world population, ignoring varying contexts and cultures.

²⁵ Belgium, UN Committee on the Elimination of Racial Discrimination (CERD) (2021), *Concluding Observations on the Combined Twentieth to Twenty-Second Periodic Reports of Belgium, CERD/C/BEL/CO/20-22*, 21 May 2021, para. 18. The first COVID-19 casualties were reported from Wuhan (China) on 31 December 2019.

²⁶ Belgium, Court of First Instance of Leuven, Chamber 1A (Rechtbank van 1e Aanleg, Leuven, Chambre 1A) (2020), [25 October 2021](#).

²⁷ Belgium, Wolwertz, A. (2021), [Mobiliser la communauté Asiatique pour les sinistrés](#), *L'avenir.net*, 21 August 2021.

²⁸ Belgium, Their website can be found on [Asia 2.0](#).

At the beginning of this chapter, it is necessary to emphasise the importance of considering racism and xenophobia through an intersectional lens. Kimberlé Crenshaw famously wrote that the discrimination of women of colour is 'greater than the sum of racism and sexism' when she coined the concept 'intersectionality'.²⁹ More generally, it is important to challenge unidimensional conceptualisations and stress that people who are targets of racism or xenophobia in Belgium are not a homogenous group. Targets can experience multiple burdens due to interlocking modes of power including gender, age, sexuality, and religion.³⁰

A new Data Hub Equality Data has been created between June 2020 and September 2021.³¹ This mapping project has been coordinated by Unia, Belgium's National Human Rights Institution with B-status under the Paris Principles, and the federal government's 'Equal opportunities' team.³² This project is a part of the European Commission's 'Rights, Equality and Citizenship' Programme. This project strengthens the collection and use of equality data in Belgium and provides a centralised platform to improve accessibility and transparency. In so doing, it aims to promote the effective implementation of the principle of non-discrimination in Belgium. Public institutions and civil society have provided input and are also the target audience of the Data Hub Equality Data. The final report of this mapping project finds that there is a lack of data on so-called 'racial' criteria.³³ The process is not finished. Any request for additions can be communicated to Unia via a web form. The Hub allows searches of data sources in French and Dutch according to the ground of discrimination (including 'skin colour' and so-called 'racial criteria'), the domain (including 'work' and 'media'), the community or region, year, type of data (including 'complaints' and 'survey'). It is also possible to filter data that contain hate crime/speech and reports that 'explicitly refer to experiences with discrimination'.

The Data Hub Equality Data refers to various manifestations and incidents of racism and xenophobia that occurred in Belgium in 2021. It is useful to refer to three reports here.³⁴ First, in the yearly external audit report of the Flemish mental health ombuds service, an ombudsperson of a hospital in Antwerp reported an 'alarming' rise in complaints on racist conduct on account of healthcare workers.³⁵

²⁹ Belgium, Crenshaw, M. (1989), 'Demarginalizing the Intersection of Race and Sex: A Black Feminist Critique of Antidiscrimination Doctrine, Feminist Theory and Antiracist politics', *The University of Chicago Legal Forum*, Vol. 1989, No. 1, p. 140.

³⁰ Belgium, The largest proportion of racist hate crimes in Belgium are ethno-religious in nature. (See CERD (n 25) para. 17).

³¹ Belgium, Unia (2020-2021), '[Données sur l'\(in\)égalité et la discrimination en Belgique](#)'.

³² Belgium, Equal.be, [Improving Equality Data Collection in Belgium](#).

³³ Belgium, Unia (2021), Improving Equality Data Collection in Belgium, Brussels, June 2021, available at: [https://equal.belgium.be/sites/default/files/Rapport_IEDCB - NL_1006.pdf](https://equal.belgium.be/sites/default/files/Rapport_IEDCB_-_NL_1006.pdf).

³⁴ Belgium, Other relevant reports will be discussed below.

³⁵ Belgium, Vlaamse Ombudsdienst (2021), *Bemiddelingsboek Ombudsfunctie in Ziekenhuizen en Geestelijke Gezondheidszorg*, 9 March 2021, p. 716, available at: <https://publicaties.vlaanderen.be/view-file/41356>.

Such conduct manifests itself, amongst others, in generalisations and biases concerning the supposed religious and cultural customs of people coming from a certain area, such as Northern Africa. The report fails to report on racist and xenophobic abuse on account of patients. Moreover, there are few reliable figures on access to health care on the basis of so-called 'racial' criteria.³⁶ Second, according to a new study on discrimination in youth football associations, players of colour and overweight players are frequently targeted.³⁷ 37% of young male players reported having fallen victim to some form of discrimination. Among young female players, this percentage rose to 50%. Two-thirds of the parents of players stated having been witness to some form of discrimination during the previous two football seasons. Nevertheless, the study concluded that the number of reported incidents of discrimination had diminished since 2005. Third, we have requested Unia to add a report on transnational adoptions that was published in August 2021.³⁸ After the suspension of such adoptions in the Netherlands,³⁹ Wouter Beke, the Flemish Minister who is competent for Family Units ('Gezin'), asked an expert panel to give advice. Amongst others, the panel advised paying more attention to 'racism, identity and discrimination', and 'the impact of abuse' during the screening and preparation of the future parents. The panel suggested that the 'ancestry centrum' ('afstammingscentrum') - a new knowledge hub of Foster Care Flanders ('Pleegzorg Vlaanderen') - can play an important role in these matters.⁴⁰

Particularly worrisome is racism and xenophobia that is promoted by state institutions. State policies, laws and practices may appear to be neutral, but - in reality - they often empower some people to disempower others. For example, crimes are defined according to the views and interests of dominant groups 'to disadvantage less powerful groups such as women, people of color, and the poor'.⁴¹ The Belgian law does not ensure that racist and xenophobic motivations are taken into account by national courts as an aggravating factor for all crime committed, therefore failing to ensure hate crimes are effectively and adequately prosecuted.⁴² The European Commission also started an infringement decision in February 2021 because Belgium does not adequately transpose the EU rules on combating racism and xenophobia by means of criminal law. Similarly, during its

³⁶ Belgium, Equal.be, [Improving Equality Data Collection in Belgium](#).

³⁷ Belgium, Royal Belgian Football Association (RBFA), '[Wetenschappelijk onderzoek naar discriminatie in het jeugdvoetbal](#)', press release, 22 March 2021; Scheerder, J., Huyghe, E. and Corthouts, J. (2021), '[Mixed-Methods onderzoek naar discriminatie in het Belgische jeugdvoetbal \(deel 5\), Synthese en beleidsaanbevelingen](#)' KU Leuven, PowerPoint presentation.

³⁸ Belgium, Expertpanel inzake Interlandelijke Adoptie (2021), *Eindrapport*, 14 August 2021, available at: www.opgroeien.be/sites/default/files/documents/expertenpanel-interlandelijke-adoptie-eindrapport-met-aanbevelingen.pdf.

³⁹ Belgium, Rijksoverheid Nederland (2021), [Adoptie van buitenlandse kinderen opgeschort](#).

⁴⁰ Belgium, Afstammingscentrum (2021), [Wie zijn we?](#)

⁴¹ Belgium, Pemberton, S. (2016), 'Prison' in Disch, L. and Hawkesworth, M. (eds.), *The Oxford Handbook of Feminist Theory*, Oxford, Oxford University Press, p. 722.

⁴² Belgium, European Commission (2021), [February Infringement Package: Key Decisions](#).

'constructive dialogue' with Belgium in 2021, the United Nations Committee on the Elimination of Racial Discrimination (CERD) referred, for example, to the overrepresentation of non-Belgians in prison, and the lack of reliable data on the national or ethnic origins and the rate and length of imprisonment.⁴³ The CERD also questioned the inconsistent and costly procedures that people in irregular situations must follow in order to obtain emergency health care.⁴⁴ However, according to a new report by Unia and the Belgian Federal Migration Centre Myria the structural dimension of racial discrimination is 'not yet sufficiently recognised'.⁴⁵ Moreover, it is 'a central issue met with significant resistance' by Belgium.⁴⁶

Institutional racism often remains invisible because it is not sufficiently measured. Up-to-date data are important to prove that 'state practices of racialization produces observable and widespread inequities' in, amongst others, income, representation in justice institutions and life expectancy.⁴⁷ In its 2021 Concluding Observations, the CERD extensively referred to Belgium's lack of data collection. Most notably, the CERD concluded that Belgium should 'endeavour to develop tools that will allow it to have an overall view of the composition of its population'.⁴⁸ The CERD also noted that the existing registering system of hate crimes and hate speech does not allow for distinguishing them or identifying specific cases of ethno-religious hatred, such as antisemitism, Islamophobia, anti-Gypsyism, Afrophobia or anti-Asian hatred.⁴⁹ In January 2021, the Belgian statistical office Statbel announced that it would start publishing new statistics on the origin of the Belgian population.⁵⁰ Statbel said that 19.7% of the Belgian population has at least one parent of non-Belgian nationality and 12.4% of the population does not have the Belgian nationality. Looking at non-EU and non-British nationalities, Morocco and Turkey are the most common countries of origin. Statbel did not release specific information on the number of people of 'Asian'

⁴³ Belgium, UN Committee on the Elimination of Racial Discrimination (CERD) (2021), *Concluding Observations on the Combined Twentieth to Twenty-Second Periodic Reports of Belgium*, CERD/C/BEL/CO/20-22, 21 May 2021, para. 26a.

⁴⁴ Id. para. 26d.

⁴⁵ Belgium, Unia and Myria (2021), *Parallel rapport voor de 20ste tot 22ste periodieke evaluatie van België*, Unia/Myria, Brussels, available at: <https://www.unia.be/nl/publicaties-statistieken/publicaties/comite-tegen-rassendiscriminatie-van-de-verenigde-naties-parallel-rapport-2021> para. 7.

⁴⁶ Id. See also Belgium, The NGO Human Rights Ligue ('Liga voor de Rechten van de Mens') wrote in an op-ed that racism in the police forces is reduced to an 'image problem'. (Belgium, Liga voor de Rechten van de Mens (2021), 'Racisme bij politie geen imago probleem, maar een mensenrechtenprobleem', *Apache*, 12 February 2021.)

⁴⁷ Belgium, Isoke, Z. (2016), 'Race and Racialisation' in Disch, L. and Hawkesworth, M. (eds.), *The Oxford Handbook of Feminist Theory*, Oxford, Oxford University Press, p. 367.

⁴⁸ Belgium, UN Committee on the Elimination of Racial Discrimination (CERD) (2021), *Concluding Observations on the Combined Twentieth to Twenty-Second Periodic Reports of Belgium*, CERD/C/BEL/CO/20-22, 21 May 2021, paras. 5-6.

⁴⁹ Id. para. 17

⁵⁰ Belgium, Statbel (2021), Nieuwe statistiek over diversiteit naar herkomst in België, 13 January 2021.

descent. In education, official figures from Statistics Flanders ('Statistiek Vlaanderen') show that between 22 and 29% of the Flemish youth in school do not speak Dutch at home.⁵¹ In Brussels, these figures amount to between 72 and 76% of the children that attend Flemish schools.

The Secretary of State in Brussels ordered an audit study from Moore Business Consulting concerning the Firefighting and Emergency Medical Assistance Service ('SIAMU' / 'DBDMH').⁵² On the basis of 45 in-depth interviews and 479 surveys, this audit found - in May 2021 - that firefighters in Brussels engaged in racist and sexist behaviour. Afterwards, Unia published a report with various anonymous statements of firefighters based on this audit. This report described that firefighters, especially those of North-African descent, frequently faced racist, sexist and Islamophobic violence, both physical and verbal, from their colleagues.⁵³ For example, some firefighters posted racist and Islamophobic messages on social media. Female firefighters of colour are particularly at risk. Two out of three female firefighters stated having faced displays of sexism, often in the form of sexist remarks or jokes by male colleagues. The Unia report contains many other examples of racist behaviour and comments by firefighters, directed toward colleagues but also the general population. In an incident reported by media outlets, a firefighter threw a banana at a patient of African descent in a hospital, shouting racist slurs. Unia found that the reaction of the trade unions towards complaints on racism was 'passive' and that the hierarchical superiors of the firefighters failed to act sufficiently when confronted with complaints on racism. This led to a general feeling among the survivors that it was useless and even counterproductive to file a complaint. One statement was 'if you dare to open your mouth, they'll make life miserable'.⁵⁴ Unia stated that it was imperative for SIAMU to implement a diversity policy and a new code of conduct, to adapt the recruitment process and to sanction those members of staff who violate the non-discrimination principle. In an official reply, SIAMU reacted in great detail to the factual elements in the Unia report.⁵⁵ According to this reply, the hierarchical structure of SIAMU and developments in the last ten to fifteen years could 'contextualise' the racist incidents from a historic perspective. However, SIAMU alleged that exclusion mechanisms were not 'inherent' to its policies and its official hierarchy. SIAMU also claimed that many complaints in the Unia report were out

⁵¹ Belgium, Statistiek Vlaanderen (2021), Leerlingenkenmerken. Unfortunately, we were not able to localize the report on the French-speaking community in Belgium to which the Data Hub Equality Data refers.

⁵² Belgium, Christiaens, E. (2021), 'Brusselse brandweer doorgelicht: audit legt racisme en seksisme bloot', *Bruzz*, 4 May 2021

⁵³ Belgium, Unia (2021), *DBDMH, Samenvatting van de getuigenissen*, Unia, June 2021, available at: www.unia.be/nl/publicaties-statistieken/publicaties/racisme-bij-de-brusselse-brandweer-samenvatting-van-getuigenissen-2021.

⁵⁴ Id. p.12

⁵⁵ Belgium, Service d'Incendie et d'Aide Médicale Urgente (SIAMU) (2020), 'Note de réponse du SIAMU au rapport de UNIA: "synthèse de témoignages - juin 2020"', 23 October 2020.

of date and that great progress had been made in the last ten years. Despite this, SIAMU reaffirmed that discrimination is not tolerated and that it wished to further combat racism within its organisation.

Another continuing problem is racism and xenophobia in the police. The CERD regretted that there is a lack of comprehensive data on racially motivated police violence and racial profiling.⁵⁶ Both issues will be discussed in turn. First, the CERD expressed concerns that incidents of racially motivated police violence are treated as isolated problems and are not dealt with in a consistent and systematic way.⁵⁷ A new position paper of the General Inspection of the Police ('Algemene Inspectie van de Federale Politie en de Lokale Politie' / 'Inspection Générale de la Police Fédérale et de la Police Locale') confirms that 'Belgian police are sailing blind: there are no clear figures concerning illegitimate police violence, racism and discrimination.'⁵⁸ The position paper recommends that more scientific research on the police is needed. Unia reported in 2021 to the CERD that it received 355 cases relating to police services, among which about 70% were about 'racial' criteria, between 2014 and 2019.⁵⁹ In 2020, Unia opened 99 cases relating to police services and 'racial' criteria.⁶⁰ In 2021, one such case emerged on video.⁶¹ A police agent used racist and homophobic slurs while she was riding her police car with a colleague in a diverse inner-city Brussels neighbourhood in 2018. The CERD noted that it is concerned that police violence and ill-treatment have intensified during the COVID-19 pandemic and following recent anti-racism demonstrations in Belgium.⁶² Second, the CERD regretted the lack of data about racial profiling. It is difficult to quantify the number of incidents of racial profiling since the term 'reasonable grounds' is often used as a justification for carrying out

⁵⁶ Belgium, UN Committee on the Elimination of Racial Discrimination (CERD) (2021), *Concluding Observations on the Combined Twentieth to Twenty-Second Periodic Reports of Belgium*, CERD/C/BEL/CO/20-22, 21 May 2021, para. 13 and 14.

⁵⁷ Id.

⁵⁸ Belgium, Algemene Inspectie van de Federale Politie en van de Lokale Politie (2021), "Zijn alle flikken onbekwaam?" *De aanpak van integriteit binnen de Belgische politie*, AIG, March 2021, available at: https://www.aigpol.be/sites/aigpol/files/attachments/visiedocument%203%20AIG%20zijn%20alle%20flikken%20onbekwaam_1.pdf.

⁵⁹ Belgium, Unia and Myria (2021), *Parallel rapport voor de 20ste tot 22ste periodieke evaluatie van België*, Unia/Myria, Brussels, available at: <https://www.unia.be/nl/publicaties-statistieken/publicaties/comite-tegen-rassendiscriminatie-van-de-verenigde-naties-parallel-rapport-2021>, para. 28 referring to Unia (2020), *Rapport chiffres 2019*, Brussels, Unia, p. 43 and 44.

⁶⁰ Belgium, Unia (2021), *Cijfersverslag 2020*, Brussels, Unia, June 2021 available at: www.unia.be/files/Documenten/Jaarrapport/CV_2020_Unia_NL_DEF.pdf p. 26; Unia (2021), *Jaarverslag 2020*, Brussels, Unia, June 2021, available at www.unia.be/files/Documenten/Jaarrapport/Unia_Jaarverslag_2020_NL_AS.pdf

⁶¹ Belgium, Het Nieuwsblad (2021), *Agentes gefilmd terwijl ze "makakken" en "bende homo's" roepen, maar ze ontkopen straffen*, 21 January 2021.

⁶² Belgium, UN Committee on the Elimination of Racial Discrimination (CERD) (2021), *Concluding Observations on the Combined Twentieth to Twenty-Second Periodic Reports of Belgium*, CERD/C/BEL/CO/20-22, 21 May 2021, para 13.

identity checks which would otherwise be considered racial profiling.⁶³ Therefore, the CERD urged Belgium to explicitly prohibit racial profiling by law and to gather data concerning the issue.⁶⁴ In February 2021, a law proposal was introduced to create a legal framework that allows people to know the reason for a police control.⁶⁵ The law has not been adopted yet, and does not sufficiently resolve the issues that have been raised by the CERD.⁶⁶ According to its 2020 year report – published in June 2021 – Unia receives about 50 complaints per year on the issue of ‘police selectivity’ (ethnic profiling), according to its year report.⁶⁷ Unia refers to a separate position paper on this issue of 2020.⁶⁸ The NGO Amnesty International recommended the use of so-called ‘stop forms’.⁶⁹ In a ‘stop form’, a police officer checking the identity of a person should be required to note the reason for stopping said person and describe this person’s perceived ethnicity and gender. This would allow for a detailed gathering of reliable data on cases of racial profiling. Some police zones are currently ‘experimenting’ with the use of body cams.⁷⁰ Police zone Antwerp has developed a framework to deal with racial profiling, and this framework has been shared with police zones all over the country.⁷¹ Various organisations emphasise the right of people to film police actions.⁷²

⁶³ Id. para. 15; Amnesty International (2021), ‘Submission to the UN Committee on the Elimination of Racial Discrimination 103rd Session, 19-30 April 2021’, April 2021, p. 3, available at <https://www.amnesty.org/en/documents/eur14/3919/2021/en/>.

⁶⁴ Belgium, UN Committee on the Elimination of Racial Discrimination (CERD) (2021), *Concluding Observations on the Combined Twentieth to Twenty-Second Periodic Reports of Belgium*, CERD/C/BEL/CO/20-22, 21 May 2021, 16.

⁶⁵ Belgium, *Wetsvoorstel van de Wet van 5 Augustus 1992 op het Politieambt, met het oog op de Invoering van een Registratie- en Motiveringsplicht bij Identiteitscontrole (DOC 55/1777/001 van 3 februari 2021)*.

⁶⁶ Belgium, Controleorgaan op de Politie Informatie (2021), *Advies Betreffende een Wetsvoorstel van de Wet van 5 Augustus 1992 op het Politieambt, met het oog op de Invoering van een Registratie- en Motiveringsplicht bij Identiteitscontrole (DOC 55/1777/001 van 3 februari 2021) DA210016*, 14 July 2021, 7, 14 and 16. This information was shared via email by Emilie Van den Broeck, Unia legal and policy officer (December 2021).

⁶⁷ Belgium, Unia (2021), *Jaarverslag 2020*, Brussels, Unia, June 2021, available at www.unia.be/files/Documenten/Jaarrapport/Unia_Jaarverslag_2020_NL_AS.pdf p 31.

⁶⁸ Belgium, Politie selectiviteit, Brussels, Unia, 2020, available at https://www.unia.be/files/Documenten/Publicaties_docs/Position_Paper_Politie_selectiviteit_Unia_-_NL.pdf

⁶⁹ Belgium, Amnesty International (2021), ‘Submission to the UN Committee on the Elimination of Racial Discrimination 103rd Session, 19-30 April 2021’, April 2021, p. 3, available at <https://www.amnesty.org/en/documents/eur14/3919/2021/en/>.

⁷⁰ Belgium, Unia and Myria (2021), *Parallel rapport voor de 20ste tot 22ste periodieke evaluatie van België*, Unia/Myria, Brussels, available at: <https://www.unia.be/nl/publicaties-statistieken/publicaties/comite-tegen-rassendiscriminatie-van-de-verenigde-naties-parallel-rapport-2021>, para. 34.

⁷¹ Belgium, This information was shared via email by Emilie Van den Broeck, Unia legal and policy officer (December 2021).

⁷² Belgium, E.g. Human Rights Ligue (*Ligue des Droits Humains*) (2021), *Etat des Droits Humains en Belgique, rapport 2020*, EDH, January 2021, available at: www.liguedh.be/wp-content/uploads/2021/02/EDH_2020%E2%80%94web.pdf.

In June 2021, Unia also published its 2020 statistics report.⁷³ According to the statistics report, the number of claims connected to so-called 'racial' features (skin colour, presumed 'race', descent, nationality and national or ethnic origin) rose to 3,684, a 49.5% increase in 2020, compared to 2019. Unfortunately, Unia does not publish specific gender-disaggregated data relating to complaints about 'racist' criteria. This is a missed opportunity. Unia can empower women of colour to claim their rights by measuring and publishing more specific data. Unia only reported gender-disaggregated data of the total number of claims. It reported that 42.4% of total claims were made by women and 54.5% by men. There are various reasons why women are less empowered to file complaints.⁷⁴ Amongst others, they have, in general, less time to do so, due to the gender pay gap and a disproportionate share in household responsibilities. They might also have internalised stereotypes to 'sois belle et tais-toi'.

The number 3,684 also contains events that were reported multiple times by various claimants, such as tweets by politicians. The total number of unique cases that have been registered on the basis of so-called 'racial' features was 2,081. That is a 1.2% increase compared to 2019. Unia did not open files for all these cases. Unia only opens a file if the following two criteria are met. First, the claim has to fall under its competence. It has been noted above that Unia is, amongst others, competent for five so-called 'racial' criteria. Notoriously, Unia is not competent for the criteria of gender and language. Second, the claimant has to request advice or another form of intervention by Unia. In 2020, approximately 920 cases of discrimination based on so-called 'racial' criteria were opened.⁷⁵ This is similar to the number of opened cases in 2019. Amongst these 920 cases, there were 244 files against the media (including social media), 196 files about access to goods and services, 194 files that related to work (including complaints about housing), 124 files were categorised in the general field of 'society' (including neighbourly disputes), 99 files related to police and justice, 52 files related to education.

Unia's year report refers to the COVID-19 pandemic in relation to people of perceived 'Asian' descent, Muslims and black people. Unia's year report furthermore explains that hostility toward people of perceived 'Asian' descent increased dramatically, often resulting in physical violence during the pandemic.⁷⁶

⁷³ Belgium, Unia (2021), *Cijfersverslag 2020*, Brussels, Unia, June 2021 available at: www.unia.be/files/Documenten/Jaarrapport/CV_2020_Unia_NL_DEF.pdf; Unia (2021), *Jaarverslag 2020*, Brussels, Unia, June 2021, available at www.unia.be/files/Documenten/Jaarrapport/Unia_Jaarverslag_2020_NL_AS.pdf.

⁷⁴ Belgium, See Nissen, A. (2021), 'Please Give Me a Remedy: Women Human Rights Defenders for Occupational Safety and Health' (working paper - available upon request).

⁷⁵ Belgium, Please note that the data reported on the website of Unia, in the statistics report, and in the separate categories seem to differ slightly.

⁷⁶ Belgium Unia (2021), *Jaarverslag 2020*, Brussels, Unia, June 2021, available at www.unia.be/files/Documenten/Jaarrapport/Unia_Jaarverslag_2020_NL_AS.pdf, p. 2.

It notes 'fear already descended upon the country even before the pandemic did'.⁷⁷ The complaints included various reports on racist slurs, a malicious prank in a Flemish high school, an incident where a person of Chinese descent was denied access to a hotel and even, in two reported cases, physical violence.⁷⁸ Unia's director also addressed the issue of anti-Asian racism in interviews.⁷⁹ Complaints concerning racism during the early months of the pandemic were not limited to asiaphobia. The report stated that the presidents of two mosques had filed a complaint against the president of the right-wing political party 'Vlaams Belang' for stating that 'the Muslim community was responsible for the increase in COVID-19-cases in Antwerp'.⁸⁰ When Vlaams Belang Member of Parliament Filip De Winter wrote a tweet deploring the government posters promoting handwashing in March 2020, 13 individual complaints were submitted to Unia.⁸¹ In his initial tweet, Dewinter mocked the fact that the poster showed a white hand and a black hand. He commented whether 'the black hand is a dirty hand which needs to be whitened?' One complaint, claiming Dewinter promoted 'white supremacist' views in this tweet, was signed by 650 people.

While there has been more attention to racism against people of perceived 'Asian' descent in the media, it needs to be emphasised here that the media displayed xenophobia in their reporting.⁸² The same newspapers that called out xenophobic references to the 'Chinese virus' (instead of COVID-19 coronavirus), used the term 'Indian variant' of this virus.⁸³ The media furthermore used slurs such as 'banana generation' to refer to people of Thai and Chinese descent in Belgium and mixed up pictures of the singers of the South Korean boy band BTS in their clickbait reporting.⁸⁴ Such xenophobic references have gone largely unnoticed. Nevertheless, one isolated event on the Flemish public broadcasting association

⁷⁷ Id. p. 10.

⁷⁸ Belgium, Unia (2020), *Covid-19: een Test voor de Mensenrechten*, Brussels, Unia, p. 34, available at: www.unia.be/files/Documenten/Publicaties_docs/2020_Rapport_Covid_-_NL.pdf, p. 31

⁷⁹ E.g. Torbeyns, A. (2021), 'Els Keytsman (Unia): 'Racisme tegen Aziatische Belgen is onderschat probleem'', *De Standaard*, 23 March 2021; Torbeyns, A. (2021), 'Unia ontvangt recordaantal klachten over racisme: 'Tien meldingen per dag'' *De Standaard*, 21 March 2021.

⁸⁰ Unia (2021), *Jaarverslag 2020*, Brussels, Unia, June 2021, available at www.unia.be/files/Documenten/Jaarrapport/Unia_Jaarverslag_2020_NL_AS.pdf, p. 34 and 46.

⁸¹ Unia (2020), *Covid-19: een Test voor de Mensenrechten*, Brussels, Unia, p. 34, available at: www.unia.be/files/Documenten/Publicaties_docs/2020_Rapport_Covid_-_NL.pdf

⁸² Belgium, The CERD regretted that people of African descent are not sufficiently represented in the media UN Committee on the Elimination of Racial Discrimination (CERD) (2021), *Concluding Observations on the Combined Twentieth to Twenty-Second Periodic Reports of Belgium*, CERD/C/BEL/CO/20-22, 21 May 2021, para. 24(c)).

⁸³ Belgium, E.g. Het Belang van Limburg (2021), 'Zeg niet "Britse variant van het coronavirus", maar "Nelly"', 19 January 2021; Het Belang van Limburg (2021), 'Wat als je je niet laat vaccineren? En zijn de vaccins bestand tegen de Indiase variant?', 13 May 2021. See Kalra, A. (2021), 'India asks social media to remove reference to 'Indian variant' of Coronavirus', Reuters, 21 May 2021.

⁸⁴ Belgium, E.g. Tielens, F. and Torbeyns, A. (2021), 'Aziaten worden gezien als modelallochtonen: altijd succesvol en nooit klagen', *De Standaard*, 27 March 2021; Het Laatste Nieuws (2021), 'Influencer ondergaat achttien operaties en naamsverandering om t lijken op BTS-zanger', 29 June 2021. See Nissen, A. (2018), 'How South Korean boy band BTS became a K-pop hit by fighting for social rights', Irish Examiner, 13 June 2018.

VRT was highly mediatised in 2021. The daily Flemish soap opera 'Thuis' - which reaches an audience of over one million people - ⁸⁵ made headlines because of a stereotypical joke on the supposed accent of people with Chinese origins (the mispronunciation of the 'r'-sound) when speaking Dutch.⁸⁶ A white character deliberately pronounced the word 'frietjes' (French fries) as 'frietjes' in a scene where she was discussing ordering french fries at a snack bar owned by a person of Chinese origin. Joey Kwan, a Flemish actress of Chinese descent, denounced the joke as an example of the increase of negative remarks on Chinese people since the beginning of the pandemic in an emotional video on social media.⁸⁷ It is interesting to note that some, including a well-known radio presenter, deemed reactions such as Kwan's 'exaggerated'.⁸⁸ VRT apologised for the incident.

Veto, the student newspaper of the university KU Leuven, also reported in May 2021 that the number of reports on anti-Asian racism had increased.⁸⁹ Heidi Mertens, a counsellor of this university's Harassment Help Desk, stated that she had received 22 complaints from students and employees of the university concerning anti-Asian xenophobia in the previous year. These figures do not reflect the full scale of anti-Asian racism complaints at KU Leuven. Not all incidents are reported and many other channels that deal with complaints on racism at the university, such as the ombudsperson.⁹⁰ In an email conversation with the authors of this chapter, Mertens provided gender-disaggregated data. She received 16 complaints from men and 6 from women. There are no exact figures that describe whether there are more male students and employees of 'Asian' descent at KU Leuven. It has already been noted above that women disproportionately face barriers when they want to file a complaint.

In a report of March 2021, Unia discussed racism and xenophobia following the terrorist attacks which took place in France and Belgium between 2014 and 2017.⁹¹ Between 2010 and 2020, Unia received 150 complaints directly or indirectly concerning the anti-terrorist measures taken by the government. The number of complaints rose rapidly after the attacks of 2015 and 2016. From 2018 onwards, the number of complaints has strongly diminished. Unia distinguishes two types of complaints: those pertaining directly to the government measures

⁸⁵ Belgium, Centrum voor Informatie over de Media (2021), Openbare resultaten, 10 October 2021.

⁸⁶ Belgium, Beckers, K. (2021), 'Stereotiepe grap over Aziaten in Thuis 'door mazen van het net geglipt'', *De Standaard*, 2 March 2021; Matthysen, H. (2021), 'De tragiek achter de 'frietjes'', *De Standaard*, 9 March 2021.

⁸⁷ Belgium, Huygebaert, P. (2021), "Thuis"-makers excuseren zich voor "frietjes"-opmerking: "Daar lach je beter niet mee", *VRT NWS*, 2 March 2021

⁸⁸ Belgium, Radio 1 (2021), 'Waarom brengt alles wat 'woke' is zo'n felle reacties teweeg?', 13 April 2021.

⁸⁹ Belgium, Desmet, E. (2021), Meer meldingen van anti-Aziatisch racisme, *Veto*, 21 May 2021.

⁹⁰ Id.

⁹¹ Belgium, Unia (2021), Maatregelen en Klimaat, Brussels, Unia, June 2021, available at: www.unia.be/files/Documenten/Publicaties_docs/2021-03_Maatregelen_en_klimaat_TERAD_2020_NL_mar0.pdf

and those about the general climate created by these measures. The latter category often includes complaints concerning the discriminatory behaviour of individuals and institutions, directly linked to a perceived terrorist threat.

Finally, Unia publishes an online database with court cases.⁹² Unia has thus far published 25 decisions for 2021. Unia does not publish comprehensive gender-disaggregated data of court cases. However, we have searched for these data to prepare this chapter. Eight cases were brought on behalf of minority communities, three cases concerned abuse against couples and families, six cases concerned alleged racist abuse against boys and men, seven cases concerned alleged racist abuse against women. It is useful to refer to two complaints that resulted in convictions. Two women witnessed a discussion between a man and two security officers in a shopping mall.⁹³ Upon seeing the two women, the man started abusing the women verbally, shouting racist insults and telling them to 'speak Dutch' and 'go back to their country'. In February 2021, the court ordered him to pay a court fine of EUR 1,200. In June 2021, a translator, whose name appeared on the list of sworn translators of the FPS Justice, was sentenced to 6 months of imprisonment for posting racist and antisemitic posts on Twitter.⁹⁴ The interpreter had sent emails containing racist language to the guardian of a Chilean minor living with his grandparents in Belgium in 2019. The translator had been asked to translate a Chilean document pertaining to the child. The translator had to translate a Spanish text because she had extreme right sympathies. She said that 'Chileans belong in Chile' and that the child should be sent back to Chile by a chartered flight.

2.2 Legal and policy developments or measures relating to the application of the Framework Decision on Racism and Xenophobia and the Racial Equality Directive

An Expert Member of the CERD and Country Rapporteur for Belgium, said that the high-level composition of Belgium's delegation during the 2021 constructive dialogue reflected the importance that Belgium placed on dialogue.⁹⁵ The CERD recommended that its concluding observations be made readily available and

⁹² Belgium, Unia (2021), Jurisprudence [Decisions between 1 January 2021 and 25 October 2021 have been published at the time of writing].

⁹³ Belgium, Correctional Court of West-Flanders, Department of Kortrijk, 17th Chamber (*Correctionele Rechtbank West-Vlaanderen, Afdeling Kortrijk, Kamer 17*) (2021), 22 February 2021.

⁹⁴ Belgium, Correctional Court of Luxembourg, Department of Arlon, 14th Chamber (Tribunal Correctionnel du Luxembourg, Section Arlon, 14ème Chambre) (2021), 3 March 2021.

⁹⁵ Belgium, UN Human Rights Office of the High Commissioner (OHCHR) (2021), In Dialogue with Belgium, Committee on the Elimination of Racial Discrimination Asks about Lack of Data on Ethnic Origin and the Removal of Belgian Nationality, press release, 21 April 2021.

accessible to the public by Belgium.⁹⁶ Unia and some media published a link to the report on their websites.⁹⁷ The headlines focused mainly on the CERD's finding on racism in the police forces that have been reported in section 2.1 above.⁹⁸ This section will discuss eight legal and policy developments that relate to the application of the Racial Equality Directive and the Framework on Racism and Xenophobia (section 2.2.2). The FRANET guidelines require to provide information especially on the efforts and challenges in the partnerships between the state and civil society or community-based organisations. Due to the major challenges that exist in Belgium, this will be discussed separately first (section 2.2.1).

2.2.1 Challenges for civil society

The CERD recommended that Belgium continues consulting and increasing its dialogue with civil society organisations working in the area of human rights protection, in particular those working to combat racial discrimination.⁹⁹ But, four issues illustrate that structural cooperation between the state and civil society is difficult. First, the CERD is concerned about the decision of the Flemish government to withdraw from the cooperation agreement between the federal state, the communities and the regions on the establishment and operation of Unia, in order to create its own anti-discrimination institution in Flanders.¹⁰⁰ This decision has been made in the 2019 Flemish government agreement but needs to be communicated to the parliaments of the other entities of Belgium by 15 September 2022. The CERD and a number of NGOs are concerned that such a withdrawal would result in a loss of the resources of Unia and make the system for the promotion and protection of human rights in Belgium more complex. Second, the CERD is concerned about the newly established Federal Institute for the Protection and Promotion of Human Rights for two reasons.¹⁰¹ On the one hand, the Institute does not have the mandate to receive and deal with individual complaints. On the other hand, the Institute has only jurisdiction over fundamental rights that come under federal jurisdiction. Notably, language is excluded. The CERD notes that the Institute should have jurisdiction over 'cases

⁹⁶ Belgium, UN Committee on the Elimination of Racial Discrimination (CERD) (2021), *Concluding Observations on the Combined Twentieth to Twenty-Second Periodic Reports of Belgium*, CERD/C/BEL/CO/20-22, 21 May 2021, para. 36.

⁹⁷ Belgium, Unia and Myria (2021), *Parallel rapport voor de 20ste tot 22ste periodieke evaluatie van België*, Unia/Myria, Brussels, available at: <https://www.unia.be/nl/publicaties-statistieken/publicaties/comite-tegen-rassendiscriminatie-van-de-verenigde-naties-parallel-rapport-2021>. E.g. De Standaard (2021), *Verenigde Naties bezorgd om racisme en geweld bij Belgische politie*, 3 May 2021.

⁹⁸ Belgium, E.g.id; RTBF (2021), *Les violences policières et le profilage racial en Belgique épinglés par un comité des Nations-Unies* 1 May 2021; Meijer, J. (2021), *VN veroordeelt structureel racisme bij Belgische politie*, *Apache*, 16 June 2021.

⁹⁹ Belgium, UN Committee on the Elimination of Racial Discrimination (CERD) (2021), *Concluding Observations on the Combined Twentieth to Twenty-Second Periodic Reports of Belgium*, CERD/C/BEL/CO/20-22, 21 May 2021, para. 35.

¹⁰⁰ Id. para. 9.

¹⁰¹ Id. para. 7-8.

of language discrimination against minorities'.¹⁰² The NGOs Association for the Promotion of the Francophonie in Flanders ('APFF') and the Association for the Promotion of Human Rights and Minorities ('ADHUM') reported to the CERD that they felt excluded from the legal process that created the Institute (despite alleged promises that they would be included in this process).¹⁰³ Third, the CERD is concerned that Belgium has not yet adopted a national or 'interfederal' action plan against racism, despite the recommendation to make this plan in its previous concluding observations to Belgium in 2014.¹⁰⁴ The Secretary of State for Gender Equality and Equal Opportunities Sarah Schlitz announced in Parliament that she aims to launch this plan in 2021. Unia and a coalition of 60 civil society organisations have been consulted, but not concerning all key stages of the plan's development.¹⁰⁵ The CERD recommended greater participation by relevant civil society actors and representatives of groups in the development of the plan.¹⁰⁶ The CERD furthermore stressed that the plan should include the structural dimension of racial discrimination and set measurable goals and deadlines for achieving them.¹⁰⁷ Thereto, sufficient resources should be allocated for the effective implementation and monitoring of the plan.¹⁰⁸ Fourth, the Flemish government funding for the Forum for Minorities ('Minderhedenforum') was cancelled in 2020. Its director, Landry Mawungu, called the decision 'incomprehensible'.¹⁰⁹ Flemish Minister for Equal Opportunities Bart Somers declared that funding would go to Join.Vlaanderen, another organisation that had been created just before the deadline for claiming funds. In November 2020, the Council of State ordered the suspension of the Flemish government's decision because the Minister had insufficiently motivated this decision.¹¹⁰ In January 2021,

¹⁰² Id.

¹⁰³ Belgium, APFF and ADHUM (2021), Alternative report of the Association for the Promotion of the Francophonie in Flanders (APFF) and the Association for the Promotion of Human Rights and Minorities (ADHUM) to the Committee on the Elimination of Racial Discrimination (CERD) with a view to examining the periodic report of the Belgian State, March 2021, para 3, available at: https://tbinternet.ohchr.org/Treaties/CERD/Shared%20Documents/BEL/INT_CERD_NGO_BEL_446_42_E.pdf. See also Ligue des Droits Humains (n 72) p. 5.

¹⁰⁴ Belgium, UN Committee on the Elimination of Racial Discrimination (CERD) (2021), *Concluding Observations on the Combined Twentieth to Twenty-Second Periodic Reports of Belgium*, CERD/C/BEL/CO/20-22, 21 May 2021, para. 11.

¹⁰⁵ Belgium, Unia and Myria (2021), *Parallel rapport voor de 20ste tot 22ste periodieke evaluatie van België*, Unia/Myria, Brussels, available at: <https://www.unia.be/nl/publicaties-statistieken/publicaties/comite-tegen-rassendiscriminatie-van-de-verenigde-naties-parallel-rapport-2021>, para 6 and R2.

¹⁰⁶ Belgium UN Committee on the Elimination of Racial Discrimination (CERD) (2021), *Concluding Observations on the Combined Twentieth to Twenty-Second Periodic Reports of Belgium*, CERD/C/BEL/CO/20-22, 21 May 2021, para. 12.

¹⁰⁷ Id.

¹⁰⁸ Id.

¹⁰⁹ Belgium, Goris, G. (2020), 'Bart Somers stopt subsidie voor Minderhedenforum en noemt het een toekomstgerichte keuze', *MO*, 10 November 2020.

¹¹⁰ Belgium, Council of State (*Raad van State / Conseil d'Etat*) (2020), Arrest 249.047, 25 November 2020.

it was announced that Minderhedenforum and Join.Vlaanderen would merge by the beginning of 2022.¹¹¹

2.2.2 Legal and policy developments

This section will discuss nine legal and policy developments that relate to the application of the Racial Equality Directive and the Framework on Racism and Xenophobia.

To begin, a number of decolonisation efforts have taken place in 2021. We have identified four efforts. First, the federal Parliament set up a Special Commission in charge of research on Congo Free State and the Belgian colonial past in DR Congo, Rwanda and Burundi, its impact and the consequences to be given to it.¹¹² The mandate of the Commission includes developing recommendations on how to deal with Belgium's colonial past, and developing proposals for reconciliation between Belgians (including Belgians of Congolese Rwandan and Burundian origin), and optimising relations between Belgians and Congolese, Rwandans and Burundians. The Commission published an extensive report in October 2021.¹¹³ The report has three parts: histories; memory, reparation and participation; and colonialism and racism. The last part has two sections. Laure Uwase first discusses the connection between anti-black racism and colonialism. Afterwards, Anne Wetsi Mpoma investigates current forms of colonialism and the connection between racism and colonialism. Many issues, including institutional racism and discrimination, racism in football, lack of diversity in the media, internalised racism, stereotypes, white privilege, racist memes, adoption, racial profiling and police violence are discussed. A small number of references in the report specifically refer to policy developments that have taken place in 2021. We have selected two issues. First, there is a reference to Belgium's effort to decolonise public space by renaming the Leopold II tunnel.¹¹⁴ A contest was organised to rename the tunnel after a woman. Mpoma questions why the tunnel was named after Annie Corby, who used racist slurs in her songs. Moreover, much more effort will need to be made by Belgium. For example, throughout the report the Commission questions why primary and high school curricula do not adequately reflect the history of colonisation or the

¹¹¹ Belgium, De Witte, L. (2021), Minderhedenforum en Join.Vlaanderen slaan handen in elkaar, VRT NWS, 7 January 2021.

¹¹² Belgium, Chamber of Representatives (*Kamer van Volksvertegenwoordigers / Chambre des Représentants*) (2020), Bijzondere commissie belast met het onderzoek over Congo-Vrijstaat (1885-1908) en het Belgisch koloniaal verleden in Congo (1908-1960), Rwanda en Burundi (1919-1962), de impact hiervan en de gevolgen die hieraan dienen gegeven te worden, 1462/001, 17 Juli 2020.

¹¹³ Belgium, Chamber of Representatives (*Kamer van Volksvertegenwoordigers / Chambre des Représentants*) (2021), Bijzondere commissie belast met het onderzoek over Congo-Vrijstaat (1885-1908) en het Belgisch koloniaal verleden in Congo (1908-1960), Rwanda en Burundi (1919-1962), de impact hiervan en de gevolgen die hieraan dienen gegeven te worden. Verslag van de deskundigen, 1462/003, 26 October 2021.

¹¹⁴ Id. pp 640-641. See also Belgium, ERD (2021), Summary record of the 2815th meeting, CERD/C/SR.2815, 29 April 2021, para. 41.

history and contributions of people of African descent in Belgium. This issue was also discussed by the CERD.¹¹⁵ Second, there are recommendations to work with the African diaspora in the cultural sector, in particular in museums, throughout the report. A number of researchers and curators have also asked the Belgian state and its heritage institutions to 'recognise the misappropriation and/or pillage of cultural heritage from (post-)colonial contexts' in 2021.¹¹⁶ Furthermore, the Secretary of State for Science Policy expressed the will to return all 'objects that have been acquired illegitimately by our ancestors' to the Congolese people.¹¹⁷

Second, Belgium - as a Member State of the EU - will commit again to fight all forms of racism, racial discrimination, xenophobia and related intolerance, and all forms of violence and discrimination, including all instances of advocacy of hatred. This is an essential element of the new Partnership Agreement with the Organisation of African, Caribbean and Pacific States that was initialled in April 2021.¹¹⁸

Third, the Cell for Equal Opportunities ('Cel Gelijke Kansen' / 'Cellule Egalité des Chances') of the federal government funded projects that are being undertaken to have a clearer understanding of the different aspects and dynamics behind discrimination and the effectiveness of government measures against racism.¹¹⁹ In September 2021, the Cell published information about nine projects that were subsidised in 2020 on its website.¹²⁰ For example, Sankaa, an NGO dealing with racism against black people, started undertaking a narrative research project.¹²¹ The goal of Sankaa's project 'Racism Unravelling' ('Racisme Ontrafeld') is to gather personal testimonies on racism as perceived by victims of xenophobia. Sankaa is collecting 600 testimonies in the form of individual 60- to 120-minute interviews conducted by trained volunteers.¹²²

Fourth, in the Brussels-Capital Region, a project called 'Assises against Racism' ('Assises de lutte contre le Racisme' / 'Assisen tegen Racisme') six different panels (statistics, data and research; housing; economy, job opportunities and public

¹¹⁵ Belgium, UN Committee on the Elimination of Racial Discrimination (CERD) (2021), *Concluding observations on the combined twentieth to twenty-second periodic reports of Belgium*, CERD/C/BEL/CO/20-22, 21 May 2021, para. 30.

¹¹⁶ Belgium, Restitution Belgium (2021), *Ethical Principles for the Management and Restitution of Colonial Collections in Belgium*, June 2021, available at: <https://restitutionbelgium.be/en/report#conclusions>.

¹¹⁷ Belgium, Rankin, J., [Belgium unveils plans to return DRC artworks stolen during colonial rule](#), *The Guardian*, 7 July 2021.

¹¹⁸ Belgium, Art 9.2 Partnership Agreement Between [the European Union / The European Union and its Member States], of the one part, and Members of the Organisation of African, Caribbean and Pacific States, of the Other Part (initialled in 2021) available at: https://ec.europa.eu/international-partnerships/system/files/negotiated-agreement-text-initialled-by-eu-oacps-chief-negotiators-20210415_en.pdf.

¹¹⁹ Belgium, Equal.be (2021), [Subsidies](#).

¹²⁰ Belgium, Equal.be (2020), [Projectoproep 2020](#).

¹²¹ Belgium, Sankaa (2021), [Racisme ontrafeld](#).

¹²² Belgium, This information was gathered during a videoconference of one of the authors with Evodia Uggi, project coordinator of 'Racisme Ontrafeld'.

office; public space and mobility; prevention and sensibilisation and finally social affairs, healthcare and access to services). Members of Parliament and government, representatives of other government institutions, experts on the field of discrimination and NGOs combatting racism participated. On 21 October 2021 the panels presented their reports in the regional parliament and on 9 November 2021 several civil society organisations (such as Actiris) were invited to react to the reports.¹²³ On the basis of these reports and reactions, the Brussels Secretary of State for Equal Opportunities will propose a Regional plan in collaboration with the other members of the Brussels regional government. In November 2021, the Brussels Secretary of State for Equal Opportunities already launched an awareness campaign called #BrusselsYouCanDoIt. The campaign included posters in metro stations, a song denouncing racism and a website raising awareness among Brussels citizens.¹²⁴ The main slogan of the campaign was ‘“Races” do not exist. Racism does’.

Fifth, in the French Community, the Minister for Equal Opportunities Frédéric Daerden presented a plan against racism entitled ‘Racism leads to nowhere’ (‘Le racisme ne mène nulle part’) in March 2021.¹²⁵ Coincidentally, the campaign was launched in Liège only a week after a Black Lives Matter manifestation took place in that same city. The manifestation had turned violent: nine people (amongst whom five police officers) were taken to hospital and rioters caused considerable damage to shops in the city centre.¹²⁶ The goal of the campaign ‘Racism leads to nowhere’ is to stop generalisations and prejudice, especially among the age group of 15-35 years old. The large-scale project, for which the government of the French Community provides a budget of 2 million euros, seeks to raise awareness, among other things by an internet and social media campaign.

Sixth, as major actors in the political life of citizens, the cities and municipalities also play a part in combating racism and discrimination in daily life. It is beyond the scope of this chapter to identify every project concerning anti-discrimination and antiracism in each of the 581 cities and municipalities of Belgium. Nevertheless, we find it appropriate to report on some of the new initiatives taken by the major cities in Belgium.¹²⁷ The city of Bruges, for instance, presented its

¹²³ Belgium, Videos and programmes of the complete parliamentary debates and the written reactions of the associations can be found on Belgium, Parliament of the Brussels-Capital Region (Parlement van het Brussels-Hoofdstedelijk Gewest / Parlement de la Région de Bruxelles-Capitale) (2021), [Assisen tegen Racisme](#)

¹²⁴ Belgium, Bruzz (2021), [Campagne zet Brusselaar aan om racisme te veroordelen](#), 16 November 2021. See: Belgium, Equal.be (2021), [YouCanDoIt Brussels](#)

¹²⁵ Belgium, Federation Wallonia-Bruxelles (*Fédération Wallonie-Bruxelles*) (2021), [Erreur 404. Le racisme ne mène NULLE PART.](#)

¹²⁶ Belgium, Huyghebaert, P. (2021), ‘[Rust teruggekeerd na zware rellen in Luik, burgemeester: "Deel reischoppers kwam uit Brussel en zelfs uit Frankrijk"](#)’, *VRT NWS*, 13 March 2021.

¹²⁷ Belgium, See also: Department of Wellbeing and Society, City of Ghent (*Departement Welzijn en Samenleving, Stad Gent*) (2020), [Actieplan antidiscriminatie en antiracisme 2020-2025](#), Ghent, City

'plan against racism 2021-2025'.¹²⁸ In it, Bruges stated the ambition of playing a precursory role in the European Coalition of Cities Against Racism (ACCER). The plan contains ten goals that the city would like to realise in the next five years, including combating discrimination on the housing market, raising awareness through education, promoting cultural diversity and handling hate crimes. Charleroi published an equal opportunities action plan in April 2021.¹²⁹ The plan proposed to fight racism by supporting the actions of the Regional Centre for Integration of Charleroi (CRIC), which organises - among other initiatives - a yearly campaign on the International Day for the Elimination of Racial Discrimination. On 21 March 2021, a static demonstration took place in Charleroi under the name 'stand up against racism' in which approximately 100 people participated. A notable attendee was David Quinaux, the officer responsible for 'discrimination and hate crimes' in the Charleroi police department. He was quoted as having said: 'This is a beautiful cause and I think that to tolerate racism is already a racist act by itself. So in Charleroi, we do not tolerate racism'.¹³⁰

Seventh, the Flemish Media Regulator ('Vlaamse Regulator voor de Media') stated in its latest yearly report that VRT had taken steps to raise awareness about social issues such as racism and discrimination in its programming.¹³¹ In an internal directive concerning the rebroadcasting of older programmes, VRT stated its intention to ensure that these programmes were 'adapted to the present climate', especially in relation to discrimination and racism.¹³² In its integrity code, VRT insisted on taking action against forms of racism or discrimination within its organisation.¹³³ Furthermore, VRT drew attention to discrimination and racism in Flemish football clubs. A series called 'FC United' focused on this theme by interviewing well-known and lesser-known football players, coaches and others involved with the sport on many forms of institutional and unofficial discrimination and racism.¹³⁴ Three 50-minute episodes were broadcasted on VRT-channel Canvas. Also in 2021, a series of interviews called 'Through the eyes of...' ('Door de ogen van...') was broadcast on Canvas.¹³⁵ The series aimed to understand

of Ghent, 14 December 2020, available at: https://stad.gent/sites/default/files/media/documents/20201217_NO_Actieplan%20Antidiscriminatie%20en%20Antiracisme%202020_25_DEF.pdf; City of Antwerp (*Stad Antwerpen*) (2021), *Allemaal Antwerpenaar*; City of Liège (*Ville de Liège*) (2021), *Lutte contre les discriminations*.

¹²⁸ Belgium, City of Bruges (*Stad Brugge*) (2021), *Stedelijk plan tegen racisme 2020-2025*, City of Bruges, April 2021, p. 6, available at: www.brugge.be/eccar-brugge-2021-2025-nl.

¹²⁹ Belgium, City of Charleroi (*Ville de Charleroi*) (2021) *Egalité des chances : le plan d'actions*, press release, 16 April 2021.

¹³⁰ Belgium, Telesambre (2021), *"Lève-toi contre le racisme": une manifestation statique à Charleroi* 21 March 2021.

¹³¹ Belgium, Flemish Media Regulator (*Vlaamse Regulator voor de Media*) (2021), *Rapport 2020*, Brussels, p. 33, available at: www.vlaamseregulatormedia.be/sites/default/files/pdfversions/toezichtsrapport_vrt_2020.pdf.

¹³² Id. p. 47.

¹³³ Id. p. 48.

¹³⁴ Belgium, VRT NU (2021), *'FC United - Aflevering 1 (Seizoen 1)'*.

¹³⁵ Belgium, VRT NU (2021), *'Canvas door de ogen van'*.

racism through the eyes of those perceiving it in the media. Special attention was given to themes such as the typecasting of 'Asian' actors in fiction and discriminatory vernacular in news programmes. In October and November 2021, a 5-part series called 'Life in colour' ('Leven in kleur') was broadcasted on Canvas.¹³⁶ Through interviews with dozens of experts and targets of racism, tv-journalist Karine Claassen wished to gather a better understanding of the broader historical, societal, psychological but also emotional aspects of racism in Flanders. Finally, the Flanders Audiovisual Fund ('Vlaams Audiovisueel Fonds') requires that applicants describe their diversity approach.¹³⁷ They are requested to consider four elements in their applications: ethnic-cultural background, gender, sexual orientation, and life with a disability.

In the Wallonia-Brussels Federation (the French Community), the Supreme Council for Audiovisual Media ('Conseil Supérieur de l'Audiovisuel') also published a yearly report in which it stated having received 45 complaints (20% of the total number of claims filed by the public) in 2020 concerning discrimination, including sexism and racism in the media.¹³⁸ Of these complaints, only one was considered warranted after close inspection by the Council. In January 2021, an analysis on 'racism, media and society' was ordered by RTBF, the Francophone counterpart of VRT. The report, published by Média Animation, an NGO for media education, stated that in spite of good intentions, there is a serious lack of diversity in the editorial staff of large media outlets, such as RTBF.¹³⁹ The report also stated that news reports on foreign affairs remain highly partial and biased and that casting in fiction series is largely based on stereotypical views held by the casting directors themselves.¹⁴⁰ The report strongly called for new action plans to diversify Belgian Francophone media and to combat forms of 'racialisation' and discrimination. At the end of 2020, the NGO Media and Diversity in Action (M&DiA) was created in French-speaking Belgium to defend the rights of minority groups in the media.¹⁴¹ There have already been some efforts, including in privately-owned television media. For example, the Belgian branch of international media chain Vice broadcasted a series called Diversideas on racism, discrimination and diversity.¹⁴²

Eight, the so-called 'praktijktesten' 'practice tests' ('praktijktesten') to detect discrimination on the housing and job market have been discussed for some years

¹³⁶ Belgium, VRT (2021), *Het leven in kleur over racisme in Vlaanderen*, 21 September 2021.

¹³⁷ Belgium, Flemish Audiovisual Fund (*Vlaams Audiovisueel Fonds*) (2021), *'Diversiteitsaanpak Filmfonds & Mediafonds'*.

¹³⁸ Belgium, Supreme Council for Audiovisual Media (*Conseil Supérieur pour l'Audiovisuel*) (2021), *Rapport d'activités 2020*, Brussels, CSA, p. 31, available at: www.csa.be/wp-content/uploads/2021/05/CSA_Rapport-2020.pdf.

¹³⁹ Belgium, Bonvoisin, D., Goffard, C. and Guffens, B. (2021), *Racisme, médias et société*, Brussels, Media Animation, p. 138, available at: https://media-animation.be/IMG/pdf/mediaanimation_-_2021_-_racismemediasetsociete.pdf.

¹⁴⁰ Id. p. 138-139.

¹⁴¹ Belgium, *Media and Diversity in Action* (2021).

¹⁴² Belgium, Vice (2021), *Diversideas*.

in Belgium, and in particular Flanders. Unia provided proposals in November 2020 to improve the practice tests by the federal and devolved authorities.¹⁴³ In December 2020, after much discussion and debate, the Flemish government finally agreed on the implementation of such tests, albeit under a different name, 'correspondence tests' ('correspondentietesten').¹⁴⁴ Vlaams Belang heavily criticised Flemish Minister of Employment Hilde Crevits, claiming the government showed a 'lack of confidence' in Flemish managers and employers by approving the 'correspondence tests'.¹⁴⁵ In March 2021, Federal Minister of Employment announced that the federal government holds the intention to render the practice tests more efficient by further developing the legal framework enabling 'mystery calls'.¹⁴⁶ It is interesting to note that, according to a VUB study conducted by Pieter-Paul Verhaeghe, Billie Martiniello and Dounia Bourabain with 899 respondents, approximately two-thirds of respondents were in favour of such tests to tackle ethnic discrimination in the housing market.¹⁴⁷ For this study, a sample of people of Belgian origin living in Flanders was interviewed.¹⁴⁸ Earlier, in March 2021, a research team of UGent revealed that, according to tests done in Antwerp, discrimination is very present in the job market.¹⁴⁹ Stijn Baert and a team of researchers sent 2,880 job applications to 1,440 job advertisements. The test results revealed that candidates with a 'non-Flemish' sounding name have 17% less chance to receive a positive answer to their application. The city of Antwerp declared wanting to create an 'improvement plan' ('verbeterplan') in collaboration with stakeholders following these results. The city of Ghent also declared wanting to continue using practice tests in order to reveal discrimination in the job market.¹⁵⁰ Unia has published a court decision of February 2021 concerning intentional discrimination of a candidate of 'foreign' descent by an employer.¹⁵¹ The manager of an ambulance company in East-Flanders accidentally sent an email to the rejected applicant stating that she didn't want 'foreigners, people

¹⁴³ Belgium, Unia (2020), 'Praktijktesten 2.0: enkele nieuwe voorstellen van Unia', 18 November 2020.

¹⁴⁴ Belgium, Winkelmanns, W. (2021), 'Vlaamse regering begint dan toch met praktijktests De Standaard, 21 December 2020 ; Flemish Parliament (Vlaams Parlement), 'Actuele vraag 242 (2020-2021)' 6 January 2021.

¹⁴⁵ Belgium, Redactie 24 (2021), 'Hilde Crevits moet kritiek slikken: "De realiteit die u niet wil zien"', 22 April 2021.

¹⁴⁶ Belgium, Arnoudt, R. (2021), 'Minister van Werk Dermagne (PS) wil praktijktests tegen discriminatie op arbeidsmarkt doeltreffender aanpakken', *VRT NWS*, 12 March 2021.

¹⁴⁷ Belgium, VUB Today (2021), 'Groot draagvlak voor antidiscriminatiebeleid', 20 September 2021.

¹⁴⁸ Belgium, Verhaeghe, P.P., Martiniello, B. and Bourabain, D. (2021), Ethnic prejudices and public support for anti-discrimination policies on the housing market (working paper).

¹⁴⁹ Belgium, Baert, S., Dalle, A., Lippens, L., Malfait, L. and Sharipova, A. (2021), 'Nulmeting Discriminatie op de Antwerpse Arbeidsmarkt Rapportering', 25 May 2021.

¹⁵⁰ Belgium, Unia (2021), 'Gent test voor het eerst arbeidsdiscriminatie en wil daarmee doorgaan, 1 July 2021.

¹⁵¹ Belgium, Court of First Instance East Flanders, Correctional Department Ghent, 14th Chamber (Rechtbank van eerste aanleg Oost-Vlaanderen, afdeling Gent, Kamer 14), '17 February 2021

without [work] experience and women with young children' among the staff as this was, according to her, 'doomed to fail'.¹⁵²

Ninth, the Royal Belgian Football Association (with the Association des Clubs Francophones de Football and Voetbal Vlaanderen) launched an ambitious action plan titled 'Come Together' in 2021.¹⁵³ This project encompasses all the projects which the RBFA undertakes to combat racism, discrimination, homophobia and other forms of inequality. Key elements of the plan include an 'accessible hotline, a new inclusion manager, a diversity board and a National Chamber for Discrimination and Racism'.¹⁵⁴ It is important to note that the Association des Clubs Francophones de Football and Voetbal Vlaanderen are subsidised by the Flemish and French Community governments who therefore support the 'Come Together'-plan.

¹⁵² Belgium, Unia (2021), 'Werkgever veroordeeld tot geldboete wegens opzettelijke discriminatie', 24 February 2021.

¹⁵³ Belgium, Royal Belgian Football Association (2021), Come Together.

¹⁵⁴ Id.

Thematic area	<p style="text-align: center;">RACISM, XENOPHOBIA AND RELATED INTOLERANCE</p> <p style="text-align: center;">Please provide one example of a promising practice to address racism and xenophobia. Please give preference to a promising practice about either: active cooperation with CSOs in addressing racism and hate crime; or combating racism and unequal treatment in the context of the COVID-19 pandemic. Where no such practice exists, please provide one example of a promising practice related more generally to combating racism, xenophobia, and related intolerances.</p>
Title (original language)	Come Together
Title (EN)	Come Together
Organisation (original language)	Koninklijke Belgische Voetbalbond / Union Royale Belge des Sociétés de Football-Association; Association des Club Francophones de Football; Voetbal Vlaanderen
Organisation (EN)	Royal Belgian Football Association (RBFA); Association of Francophone Footballclubs; Football Flanders
Government / Civil society	Federal Government Government of the French Community of Belgium (Federation Wallonia-Brussels) Flemish Government
Funding body	Come Together Royal Belgian FA (rbfa.be) (FR) Come Together Royal Belgian FA (rbfa.be) (NL) Come Together Royal Belgian FA (rbfa.be) (EN)

Reference (incl. URL, where available)	March 2021 (start date)
Indicate the start date of the promising practice and the finishing date if it has ceased to exist	Action plan against racism and discrimination in the football sport in Belgium.
Type of initiative	The campaign targets the entire football community – including players, fans and video referees – in Belgium. It brings the national team ('Red Devils'), professional and amateur football clubs together.
Main target group	The action plan is to be implemented on all levels: national, regional and local.
Indicate level of implementation: Local/Regional/National	Federal Government Government of the French Community of Belgium (Federation Wallonia-Brussels) Flemish Government

<p>Brief description (max. 1000 chars)</p>	<p>The goal of the action plan is to eradicate racism and discrimination in the football community in Belgium. The plan was conceived together with various stakeholders, including the government. Football is a reflection of our society and should play a leading role in anti-racism and anti-discrimination campaigns. The action plan encompasses all the projects which the RBFA undertakes to combat racism, discrimination, homophobia and other forms of inequality. Key elements of the plan include an accessible hotline, the appointment of an inclusion manager, a diversity board and a National Chamber for Discrimination and Racism.</p>
<p>Highlight any element of the actions that is transferable (max. 500 chars)</p>	<p>One of the most innovative and transferable elements in the plan is that referees are henceforth provided with a new incident form, which includes a case for incidents concerning racism and discrimination. Referees have to report any incident that is reported to them, even if they did not see or hear this incident (Articles B11.234 and B11.235).</p>
<p>Give reasons why you consider the practice as sustainable (as opposed to 'one off activities')</p>	<p>The impact of the campaign is sustainable because it introduced new and enduring institutions in order to combat racism and discrimination. These institutions include notably the introduction of a National Chamber for Discrimination and Racism. The Chamber – which consists currently of (only) 2 female and 4 male Members - can impose sanctions on clubs, players, coaches and club managers. The sanctions include such as a stadium ban or the obligation for clubs to play behind closed doors or on neutral ground. The decisions of the Chamber are subject to an appeal to the Belgian Court of Arbitration for Sport.</p>

<p>Give reasons why you consider the practice as having concrete measurable impact</p>	<p>Every year, the organisations will report upon the progress made to the media. The action plan furthermore sets out that a university will be approached in order to measure its impact every two years. In addition, collaborations with various universities will take place in order to ensure that students write thesis projects on the action plan. The plan will certainly be followed with great scrutiny in traditional news media and social media. It is interesting to point out that racist remarks made by fans during football matches have sparked renewed media interest in December 2021. During a press conference after a football match, a well known Belgian football trainer of Congolese descent said he was 'disgusted' by racist remarks heard during the match between his team and a West-Flemish team. A famous football player for the Belgian Red Devils who is also of Congolese descent supported the trainer's remarks by questioning the effectiveness of the RBFA's response to racism. 'Enough is enough', the football player said in an Instagram post. The RBFA is currently investigating the incidents. The matter may be transferred to the National Chamber for Discrimination and Racism.</p>
<p>Give reasons why you consider the practice as transferable to other settings and/or Member States?</p>	<p>Sports play an important role in social and cultural life in all Member States.</p>

<p>Explain, if applicable, how the practice involves beneficiaries and stakeholders in the design, planning, evaluation, review assessment and implementation of the practice.</p>	<p>The action plan is an example of cooperation on a national, regional and local level because it has been adopted with the support of both linguistic football associations of Belgium (the French- and Flemish-speaking associations). It is funded and supported by different government bodies in Belgium. The action plan was conceived after deliberation with several stakeholders. More precisely, 20 people, notably (former) football players, referees, managers and representatives of the Youth Council (<i>Jeugdraad</i>) worked alongside the football associations (RBFA, Voetbal Vlaanderen and ACFF) in order to create a plan to tackle racism and discrimination (Sporza (2021), 'Voetbalbond pakt uit met nieuw actieplan tegen racisme en discriminatie', 2 March 2021).</p>
<p>Explain, if applicable, how the practice provides for review and assessment.</p>	<p>In May 2021, it was announced that 14 new members of the Diversity Board had been installed (RBFA (2021), 'Ontdek ons RFBA Diversity Board', 5 May 2021). (Only 4 out of 14 members were women.) The Diversity Board is to convene 4 times per year to implement and if necessary modify the action plan.</p>