

CRI(2017)5

**ECRI CONCLUSIONS
ON THE IMPLEMENTATION OF THE RECOMMENDATIONS
IN RESPECT OF BELGIUM
SUBJECT TO INTERIM FOLLOW-UP**

Adopted on 8 December 2016¹

Published on 28 February 2017

¹ Unless otherwise expressly stated, any developments which occurred after 20 October 2016, the date on which the latest information on the measures taken by the authorities to implement the recommendations chosen for interim follow-up was received, are not taken into account in this analysis.

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FOREWORD

As part of its fifth round of monitoring work, ECRI has renewed its process of interim follow-up with respect to two specific recommendations made in each of its country reports.

In line with the Information Document on ECRI's fifth monitoring cycle brought to the attention of the Ministers' Deputies on 14 November 2012¹, not later than two years following the publication of each report, ECRI addresses a communication to the Government concerned asking what has been done in respect of the specific recommendations for which priority follow-up was requested.

At the same time, ECRI gathers relevant information itself. On the basis of this information and the response from the Government, ECRI draws up its conclusions on the way in which its recommendations have been followed up.

It should be noted that these conclusions concern only the specific interim recommendations and do not aim at providing a comprehensive analysis of all developments in the fight against racism and intolerance in the State concerned.

¹ CM/Del/Dec(2012)1154/4.2

1. *In its report on Belgium (fifth monitoring cycle) published on 25 February 2014, ECRI recommended that the authorities carry out without any further delay the assessment of the application and effectiveness of the legislation against racism and intolerance as contained in the 2007 acts in accordance with Article 52 of the Anti-discrimination Federal Act, in order to identify any gaps that need to be closed or any improvements or clarifications that might be required.*

Article 52 of the Act of 10 May 2007,¹ the so-called Anti-Discrimination Act, provides that "every five years, as from the entry into force of this Act, the legislative chambers shall evaluate the application and effectiveness of this Act as well as of the Act of 10 May 2007 pertaining to the fight against discrimination between women and men and the Act of 30 July 1981 on the punishment of certain acts inspired by racism or xenophobia."² This evaluation is made on the basis of a report presented to the legislative chambers by a committee of experts. The first evaluation should have had already been made in 2012.

As concerns the implementation of its recommendation, ECRI notes that:

1. On 18 November 2015 the Belgian authorities adopted a Royal Decree setting out the composition of the committee of experts, their manner of nomination, and the form and concrete substance of the report to be presented in compliance with Article 5 (3) of the Act of 10 May 2007.
2. Once nominated, the committee is supposed to draft two reports. The first, published after six months, will serve as a basis for a possible revision of the Belgian legislation on combating discrimination. A second report will be published four and a half years later.
3. On 26 February 2016 the Interfederal Centre for Equal Opportunities (UNIA), which provides secretariat services for the committee, made public its own evaluation report on the anti-discrimination and anti-racism laws and organised a one-day workshop in Brussels.
4. On 6 July 2016 the committee's experts were nominated by Royal Decree with some delay, due to the requirements regarding equal representation of languages and equality between men and women,³ and the committee held its first meeting on 29 August 2016.
5. According to information received from UNIA, which provides it with secretariat services, the Committee has already held several sessions and should present its first report in February 2017.

Despite these positive developments, ECRI can but note, that at the time of the adoption of its conclusions, its recommendation has not yet been fully implemented.

However, these very recent initiatives by the authorities are undisputedly a step in the right direction and appear to signify that an initial report evaluating the implementation and effectiveness of the legislation on racism and intolerance will soon be finalised and its results analysed with a view to a possible revision of the legislation.

¹ Law to combat certain forms of discrimination, Belgian Official Journal 30.V.2007, amended by the Acts of 30 December 2009 (Belgian Official Journal 31.XII.2009) and of 17 August 2013 (Belgian Official Journal 5.III.2014).

² On the general legislative framework, see paragraphs 3 - 7 of the report on Belgium (fifth monitoring cycle) <http://www.coe.int/t/dghl/monitoring/ecri/Country-by-country/Belgium/BEL-CbC-V-2014-001-ENG.pdf>.

³ Royal Decree of 6 July 2016 nominating members of the Committee of Experts, published on 4 August 2016 http://www.etaamb.be/fr/arrete-royal-du-06-juillet-2016_n2016009361.html.

2. In its report on Belgium (fifth monitoring cycle), ECRI recommended that the Belgian authorities conclude as soon as possible the legislative process to turn the Centre for Equal Opportunities and Opposition to Racism into a fully independent inter-federal institution dedicated to helping all victims of discrimination on the grounds within its competence.

ECRI was informed that the June 2013 Cooperation Agreement between the Federal Government, the Regions and the Communities aimed at transforming the Centre for Equal Opportunities and Opposition to Racism into an Inter-federal institution⁴ was approved by all the Parliaments (Federal State and federated entities) and published in the Belgian Official Journal on 5 March 2014. The new Interfederal Centre for Equal Opportunities is called UNIA⁵ and it is one of the two bodies which have inherited the competencies of the former Centre for Equal Opportunities and Opposition to Racism, with MYRIA, the Federal Centre on Migration.⁶ The new UNIA legal structure came into effect when the new board of directors, which comprises 20 members plus the member from the German-speaking Community who deals with matters concerning that community, officially took up office on 3 February 2015. Members are nominated on the basis of their competence, experience, independence and moral authority. They come notably from academia, the judiciary, civil society and the social partners.

Considering more specifically the points raised in the recommendation, i.e. *the full independence of the institution and its accessibility to all victims of discrimination*, ECRI notes that:

1. In accordance with paragraph 4 of the above-mentioned Cooperation Agreement, the UNIA Inter-federal board of directors is chaired by two Co-chairs « belonging to a different linguistic role and of opposite sex ». The Co-chairs, who alternately hold the posts of Chair and Vice-chair each year, are nominated by the Inter-federal board of directors. One of them is nominated by the members of the Inter-federal board of directors who are appointed by the House of Representatives and the other by the members nominated by the Communities' and the Regions' parliaments. Moreover, strict rules on incompatibility preclude members of the board of directors from holding political office.
2. Thanks to its inter-federal nature, UNIA ensures the accessibility of services coming within its competence to every person in the country, whatever the legislation applicable to him/her, through a central contact point, and in collaboration with the Regions, Communities, Provinces and municipalities, through local contact points to which a claim may be filed.

ECRI therefore considers that its recommendation has been implemented.

⁴ Cooperation agreement between the Federal Authority, Regions and Communities aimed at creating an Interfederal Centre for Equal Opportunities and Opposition to Racism and Discrimination as a single institution, within the meaning of Article 92 *bis* of the Special Institutional Reform Act of 8 August 1980 <http://unia.be/fr/legislation-et-recommandations/legislation/accord-de-cooperation-centre-interfederal-pour-legalite-des-chances>.

⁵ From the Latin word « *unio* », I unite.

⁶ The creation of a broad-based structure (*Institut coupole pour les droits de l'homme*) is also envisaged. See paragraph 36 of the report on Belgium (fifth monitoring cycle) <http://www.coe.int/t/dghl/monitoring/ecri/Country-by-country/Belgium/BEL-CbC-V-2014-001-ENG.pdf>.

