



MATRIFOR PROJECT

ANALYSIS OF EU DIRECTIVE 2011/36/EU TRANSPOSITION - BELGIUM

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1. Human Trafficking in the law in Belgium

The specific criminal law of August 10 2005 of the Criminal Code makes trafficking in human beings an offence. In 2005, this new law introduced into the Criminal Code a new chapter that contained article 433quinquies to 433novies. As such, Belgium did take the necessary measures to ensure that human trafficking is punishable, as requested an art 2 of the EU Directive on trafficking. The new article 433quinquies provided a definition of human trafficking. The new provisions did not make a distinction between adult and child victims of human trafficking.

In Article 433quinquies, human trafficking is defined as follows:

“Trafficking in human beings is constituted by the act of recruiting, transporting, transferring, harbouring or receiving a person, the exchange or transfer of control over that person, in order to:

- 1 ° with respect to that person to commit crimes that are meant in Articles 379, 380, § 1 and § 4 and 383 bis, § 1;
- 2 ° with respect to these persons to commit the offense referred to in Article 433;
- 3 ° to put this person to or have him/her put at work in conditions that are contrary to human dignity;
- 4 ° to remove from this person organs or tissues or allow that such removal is done in violation of the law of 13 June 1986 on the removal and transplanted of organs;
- 5 ° or have this person commit a crime or an offense contrary to his or her will.

Except in the case referred to in 5, the consent of the person referred to in the first paragraph with the intended or actual exploitation is of no importance (source: Annual Report Human Trafficking 2005, http://www.diversiteit.be/sites/default/files/legacy_files/publications/rapport_annuel/05_verslaghandel2005.pdf, accessed November 13, 2014).

On the one hand the offense of human trafficking, regardless of the sector of exploitation, is now part of the Penal Code, which makes it applicable to all victims, both Belgians and aliens. On the other hand, the only constitutive elements of the crime, are the existence of an act (recruitment, housing, transport ...) and certain forms of exploitation with a well-defined outcome; the mode operandi (threats, coercion, violence, etc.) from the Palermo Protocol and the European Framework are only mentioned as aggravating circumstances of the crime. With regard to the forms of sexual exploitation, this law was limited to crimes relating to prostitution and child

pornography. Regarding the exploitation of labour, this must take place "in degrading circumstances ". The removal of organs was imposed by the Palermo Protocol. The article 433 stipulates two other forms of exploitation: begging, also introduced in the Penal Code by the new law (Article 433 ter) and committing a crime against his will. (source: Annual Report Human Trafficking 2005, http://www.diversiteit.be/sites/default/files/legacy_files/publications/rapport_annuel/05_verslaghandel2005.pdf, accessed November 13, 2014).

Aggravating circumstances

The penalties on trafficking and smuggling of humans have been equalised (the basic crime regarding human trafficking and human smuggling is an imprisonment of 1 to five years and a fine of 500 euro to 50.000 euro) and aggravating conditions are now similar for both crimes. Three levels of aggravating circumstances were determined in the law of August 10 2005. The first level is linked to the status of the perpetrator (person with authority over the victim, public officer or official)¹. The second level puts several aggravating circumstances at the same level: the minority of the victim, the means (including the use of violence or any form of coercion and abuse of vulnerability, this were already mentioned as constitutive elements in art 77bis), the consequences of the crime (bringing in danger the lives of victims, permanent disability) and the circumstances in which the act took place (namely the aggravating circumstances of the former Article 77bis (ordinary activities and gang formation)². The third level refers to the criminal organization and the non-intentional death of the victim³. The sanctions were adjusted to bring them in line with the penalties in the new European instruments. European law on trade and smuggling of migrants specifically imposed certain aggravating circumstances: for trade, this concerns endangering the victim, the involvement of a criminal organization, the particular vulnerability of the victim, the use of extreme violence or the fact that particularly serious damage was caused to the victim (Article 3 of the Framework Decision). For the Smuggling, this concerns endangering the lives of the victim and

¹ See new article 433 series of the Criminal Code (trafficking) and new art 77ter (smuggling). The punishments in this respect are imprisonment with 5 to 10 years and a fine of 750 to 75.000 euro.

² See new article 433septies of the Criminal Code (trafficking) and the new article 77 quarter (smuggling). The punishments in this respect are imprisonment from 10 to 15 years and a fine of 100 to 100.000 euro.

³ See new article 433octies of the Criminal Code (trafficking) and new Article 77 quinquies (smuggling). The punishments in this respect are imprisonment with 15 to 20 years and a fine of 1000 to 150.000 euro.

the involvement of a criminal organization (Article 1 3 of the Framework Decision). Other aggravating circumstances such as the perpetrator of the crime being an official were not imposed by international obligations (Annual report 2005).

Change in law on trafficking to comply with EU Directive 2011/36/EU

The annual report 2013 on Human Trafficking of the Federal Centre, states that in 2013, the new law on human trafficking (Law April 29 2013) was adopted to change Art 433 quinquies of the Criminal Code, punishing human trafficking. This law should be framed within the transposition van Directive 2011/36/EU on human trafficking, to which 'Belgian legislation is already largely complying' (Annual Report 2013 Human Trafficking page 38). This new law altered the sentences, by which the amount of fines will be multiplied by the number of victims⁴. This principle does not only apply to human trafficking⁵ but also to smuggling of human beings⁶, exploitation through begging⁷ and prostitution⁸ (page 38). Human trafficking, punished by Art 433 quinquies of the Criminal Codes, is now defined as: "Trafficking in human beings is constituted by the act of recruiting, transporting, transferring, harbouring or receiving a person, or taking or transferring control exercised over that person, :

- 1) For the purpose of exploitation of prostitution or other forms of sexual exploitation;
- 2) For the purpose of exploitation of begging;
- 3) For the purpose of work or services in conditions contrary to human dignity;
- 4) For the purpose of organ removal in violation of the law of June 13 1986 regarding the removal and transplantation of organs, or removal of tissues or human corporal material in violation of the law of December 19 2008 regarding the procurement and use of human corporal material on the removal and transplantation of organs for medical or scientific research purposes;

⁴ Law of June 24 2013 regarding punishment of the exploitation of begging and prostitution, human trafficking and human smuggling in relation to the number of victims, B.S., 23 July 2013.

⁵ Therefore, articles 433 quinquies to octies of Criminal Code have been adapted.

⁶ Changing of Articles 77bis to quinquies of the law of 15 December 1980 regarding access to the territory, residence, settlement and removal of foreigners.

⁷ Changing of Articles 433ter and quarter of the Criminal Code.

⁸ Changing of Article 380 of the Criminal Code. This change is following an amendment of the government (Parl.St., Senaat, zitting 2012-2013, nr. 5-1216/2).

- 5) or for the purpose of making that person commit a crime or misdemeanour against his/her will.

The report also states that the alterations in the law refer to both material and moral elements of the offence (Annual report 2013, pages 38-39):

- Material elements of the offence: Taking control over a person has been added as an element of human trafficking and replaces the former terminology that talked about the “change” of control. In the beginning, the transfer of control related to the selling of a person and not to situations whereby the control over a person was done with the purpose of exploitation. The term “taking control” also makes it possible to target more clearly actions such as buying, illegal adoption or the control over a person in the framework of a forced marriage⁹ (Annual Report Human Trafficking 2013).
- Moral elements of the offence: the finalities of exploitation have been expanded or clarified, i.e. sexual exploitation has been expanded to include sexual slavery, there is a specific reference to services regarding exploitation through labor and the law was completed by adding to the removal and transplantation of organs, the law regarding the removal of human materials.

2. National rapporteur on human trafficking and statistics

Belgium is complying with article 19 of the EU Directive. The Interdepartmental Coordination Unit for Action against Trafficking in Human Beings¹⁰, together with the Federal Migration Centre, is assigned as the mechanism to report on behalf of the government to the Anti-Trafficking Coordinator (ATC) and others, on matters related to human trafficking. The requirements of the Directive 2011 have long been applied to (according to law 1/9/2014), but the new law of September 1 2014 formalises the transposition of art 19.

⁹ See Amendment to the proposal of law to alter article 433*quinquies* of the Criminal Code with the aim to clarify and expand the definition of human trafficking for sexual exploitation, *Parl. St.*, Kamer, Doc 53-2607/002, p. 4.

¹⁰ This inter-departmental Unit brings together all relevant ministries and public bodies, supervises the implementation of the national anti-trafficking policy and implements the Second Action Plan against trafficking in human beings 2012-2014 (GRETA, 2013. Report concerning the implementation of the Council of Europe Convention on Action against Trafficking in Human Beings by Belgium. First evaluation round, Strasbourg, 13 september 2013, GRETA(2013)14, page 7).

Since March 15 2014, a new federal Centre for the Analysis of Migration Flows, the protection of the fundamental rights of foreigners and the fight against human trafficking, has been created. The law of September 1 2014 has officially appointed this Centre as the independent component of the equivalent mechanism to the National Rapporteur on Human Trafficking. The other component is the Interdepartmental Coordination Unit (develops national action plan on human trafficking, reports on implementation of law (FOD Justice, as part of this Unit), evaluates and is the official contacting point on behalf of the government.

The structure of the annual report 2013 of the independent rapporteur human trafficking Belgium, follows the template of the European Commission, as the EC has to report to the EP and the Council by April 6 2015 how Member States have taken the necessary measures to transpose Directive 2011/36/EU. The ATC of the EU prepared a template to assist Member States to provide the necessary information. The independent rapporteur wishes to collaborate to this evaluation (Jaarverslag Mensenhandel 2013, p37). As such, Belgium complies with art 20 of the Directive, stipulating that information should be transmitted to the anti-trafficking coordinator of the EU. The second chapter of the Annual Report 2013 provides the results of the policy regarding the fight against human trafficking, and includes information on Detection, investigation and prosecution, support and care for victims and prevention.

With regard to human trafficking, data can be obtained from six stakeholders in Belgium: the police, the labor inspectorate services, the Bench of Prosecutors General, Foreigners' Office, specialised reception centres for victims, and Crime Policy Department. However, The Centre for Migration in its Annual Report 2013 states that data from these services are not aligned which leads to a biased picture of the reality. By consequence, they cannot be used as a basis for an evaluation of policies or to support strategic analyses. Moreover, they impact the reporting to European institutions (Annual Report 2013, page 83). The data in the Annual Report that were mentioned per actor, do not specifically mention 'forced marriages', but refer to the following categories of human trafficking (Annual Report 2013, pages 82-101):

- For the federal police: sexual exploitation, child pornography, economic exploitation, begging, criminality, and trade of organs.
- For the labour inspectorate services: economic exploitation

- For the Bench of Prosecutors General: sexual exploitation, exploitation of begging, exploitation of labour, illegal removal of organs and forcing to commit crimes
- For Foreigners' Office: sexual exploitation, economic exploitation, 'other'
- For Specialised Reception Centres for victims: sexual exploitation, begging, economic exploitation
- For Crime Policy Department: sexual exploitation, economic exploitation, more than one category of exploitation, 'not mentioned'.

No data were mentioned in this report on forced marriages, with the exception of the court case in Verviers (see below).

According to the GRETA report, and based on information provided by the Belgian authorities, on average, 130 trafficking victims were identified every year for the period 2009-2012. Victims of trafficking for the purpose of sexual exploitation constituted around 40% of trafficking victims (GRETA report page 10).

When describing how Belgium has integrated the core concepts and definitions contained in the Council of Europe Convention on Action against Trafficking in Human Beings, in the internal law, the GRETA report mentions that the Federal Public Department of Justice concluded that the use of forced marriages (or illegal adoption) could be taken into account as actions transferring control, and that it was not necessary to change the terms of criminalisation to cover trafficking for the purposes of these forms of exploitation. Further in the report, no reference was made to forced marriages as a form of trafficking in human beings.

The GRETA report 2013 also mentions that a vertical and horizontal coordination between all the players concerned should be stepped up in Belgium, in order to guarantee a comprehensive and coherent approach to action against trafficking (GRETA report page 7). It also says that a comprehensive and coherent system of statistics on trafficking in human beings must be devised and brought into operation, as there is currently no practice of collecting centralised and standardised data on trafficking in human beings (page 7 and page 27). It suggests that Belgian authorities should design and bring on stream a complete, coherent statistics system on trafficking in human beings, bringing together reliable statistical data sources from all the key actors which can be broken down by sex, age, type of exploitation, country of origin/or destination, etc.

3. Court Case on forced marriages based on human trafficking

According to the Annual Report 2013, the change in law on human trafficking of 29 April 2013, was the basis for an arrest of the “correctional” (magistrates?) court of Verviers of January 30. In this case of forced marriage (on the basis of common law) of two minors, the court has convicted the parents of the minors for human trafficking (sexual exploitation). The court ruled that there was definitely a transfer of control over the minor girl, so that rape and assault of the integrity (“eerbaarheid” = chast, modesty, honour) its violence and threats on her, could be made possible. In Chapter IV, the Annual Report 2013 provides an overview of the jurisdiction of 2013 to April 2014, regarding human trafficking. In the section on ‘human trafficking for sexual exploitation’, the report details the court case of Verviers, which is described below. It concerns the conviction of two Roma couples, for having forced their children of 13 year to have sex. According to a newspaper article, the magistrates’ court of Verviers has condemned the two Roma couples to five years imprisonment with partial suspension. During the court sessions, the parents minimised the accusations. According to the parents of the boy, they acted simply according to the traditions of their culture. From the declarations of the father of the girl, the parents of the boy paid 5.000 euro to the other parents. For this amount, the boy was allowed to have sexual intercourse with the 13-year-old girl. There was a ceremony to officialise the agreement, after which the couple had sex to proof that the girl was a virgin. The mothers were sentenced to 30 months effective imprisonment, their husbands to 40 months (www.standaard.be/cnt/dmf20140130_00954930, accessed July 16 2014).

For the first time ever, the Center for Migration flows, obtained knowledge of the application of provisions on human trafficking, with regard to a case of a customary marriage of two minors, of which the girl was younger than sixteen. The criminal court of Verviers has ruled about this¹¹. In this case, the parents of these minors are prosecuted, among others, for trafficking for sexual exploitation, rape and assault of integrity with violence and threats. The two families wanted to frame a love relationship between their children. The parents of the young man handed a sum of money to the parents of the young girl. That amount was dependent on whether the girl was a virgin or not, as tradition dictates. A celebration was held, after which the minors had sexual relations within the family of the young man. The young girl also

¹¹ Criminal Court Verviers, January 30 2014, 11th K. (definitive).

moved into the family of the young man. She had to perform household chores, so she was often absent from school.

The court considers the charges of rape and assault of the integrity by the co-perpetrators (the parents) as well-founded¹², even though they did not commit the facts themselves and even though they were not present during the act. The parents have framed the relationship of their children and have organized an event that was to lead to the consumption of sexual relations.

By establishing a framework and by wanting to comply to a tradition, the court ruled that they have contributed and have done everything, so that the young man would not doubt, or even encouraged, to violate the chastity and virginity of the young girl. As for trafficking of human beings, the court assumes that there had indeed been a transfer of control of the minor girl, in order to facilitate infringements of rape, assault of the integrity with violence and threats, and corruption of youth in front of the girl. The transfer of authority appeared both from the handover of the money, as from the "removal" of the minor to the family of the young man. Moreover, all defendants were aware that the party that was organized would lead to sexual relations between the children. The component with a view to letting committing the crime was also demonstrated (Annual Report 2013, page 99).

The GRETA report states that Belgian authorities should pay increased attention to trafficking in children, particularly those who are of Roma origin and are exploited for the purpose of forced begging or the committing of offences (page 7), but does not mention anything in relation to forced marriages in Roma communities.

4. The Palermo Protocol

Belgium has signed the Palermo Protocol on December 12 2000 and ratified it on August 11 2004. No reservations were made upon signature. The French, Flemish and German-speaking communities and the Regions of Wallonia, Flanders and Brussels-Capital are bound by this signature (source: United Nations Treaty Collection,

¹² According to Art 66 of the Criminal Code, perpetrators of an offence or crime are "Those who have committed the offence or crime or who collaborated directly to commit it; those who have - by any act to commit – provided support so that the crime or the offence could not have taken place otherwise".

https://treaties.un.org/Pages/ViewDetails.aspx?src=TREATY&mtdsg_no=XVIII-12&chapter=18&lang=en#EndDec, accessed November 24, 2014).

5. The CEDAW report of Belgium¹³

Belgium has signed the CEDAW convention on July 17 1980, and ratified it July 10 1985. The last report was submitted on October 2 2012, and was published March 2014.

Article 3 Guaranteeing human rights and fundamental freedom

This report mentions, under Article 3 in its section on combating violence against women – mechanisms to combat violence against women, the National Action plan to combat partner violence and other forms of domestic violence 2010-2014. It states: “In November 2010, Belgium adopted a new national action plan to combat partner violence and other forms of domestic violence (PAN) 2010–2014. This plan builds on the previous national action plan 2008–2009, which concerned only partner violence. Its field of action now also includes forced marriages, honour-related violence and female genital mutilation (FGM). Through this new plan linking together the federal State, the Communities and the Regions, Belgium has undertaken to implement more than 120 new measures to combat these various forms of violence.”

Specific reference is also made, in the section under Policies – Other advances in combating violence against women, to the Francophone policy for combating partner violence and the Brussels regional coordination of efforts to combat violence:

- The Francophone policy for combating partner violence: “The three Francophone governments (government of the French Community, the Walloon Region and the College of the French Community Commission of the Brussels-Capital Region) joined together to adopt a guidance note and a joint action plan against violence. The guidance note, adopted on 17 December 2009, constitutes the French Community’s contribution to the national plan of action to combat partner violence, extended to include other forms of gender-based violence (2010–2014). Setting out under five action lines the measures

¹³ Text from this section is derived from “ Committee on the Elimination of Discrimination against Women Consideration of reports submitted by States parties under article 18 of the Convention on the Elimination of All Forms of Discrimination against Women. Seventh periodic reports of States parties due in 2012 Belgium. [2 October 2012]. <http://daccess-dds-ny.un.org/doc/UNDOC/GEN/G13/412/58/PDF/G1341258.pdf?OpenElement>, accessed November 24, 2014

taken by all the Francophone entities to combat violence, the guidance note is in direct line with previous public policies in that it gives priority attention to partner violence, genital mutilation and forced marriage”.

- The Brussels regional coordination of efforts to combat violence: “In 2010, the regional coordination of efforts to combat partner violence was broadened to include domestic violence (female genital mutilation (FGM), forced marriage, so-called honour crimes).

In the section on “Gender dimension in Asylum Policies”, the report states: “The Belgian authorities take into account the specific needs and vulnerability of certain specific migrants groups such as women or persons who have fled their countries because of gender-related persecution (forced marriage, FGM, honour-related violence, etc.).”

Article 15. Sexually stereotyped roles and prejudices

In the report, under section Article 5.a. on the Elimination of customary practices (art. 5.a), forced marriages is mentioned as follows: “It may be recalled that the national action plan (PAN) 2010–2014 was expanded to take in such phenomena as forced marriage, female genital mutilation and honour-related violence, thereby demonstrating Belgian’s determination to step up its efforts to combat these phenomena”.

In the section “policy for the elimination of FGM”, it states “Under the national action plan, the Walloon Region has given priority to the development of assistance for women victims of genital mutilation who are often also victims of forced marriage. For two years, the Walloon Region has been supporting a family planning centre, which provides such persons with psychological, legal and social assistance. More recently, employment aid has been granted to three not-for-profit organizations to develop more extensive assistance for victims of genital mutilation.”

Article 16 of CEDAW: Marriage and family life

The report details the legal treatment of forced marriages in Belgium. With regard to the section “Prevention of forced marriages”, the report states:

“Belgian legislation sets several conditions for marriage. The main ones are a minimum age of 18 years, barring exceptions on serious grounds, consent of the prospective spouses, absence of kinship ties and the prohibition of bigamy.

Belgium is actively engaged in efforts to prevent marriages contracted without the free consent of either of the two spouses. Under article 391sexies of the Criminal Code, inserted by a law of 25 April 2007, forced marriage is a criminal offence. This article provides for the punishment of persons who, by violence or threat, coerce someone or attempt to coerce someone to enter into a marriage. In addition, under article 146ter of the Civil Code inserted by the same law, a marriage concluded without the free consent of both spouses and for which the consent of at least one of the spouses was obtained by violence or under threat is null and void. The purpose of this new law is to protect the right of victims to enter freely into a marriage, and to protect their freedom, dignity and physical integrity. Lastly, an article inserted in 2006 in the law of 15 December 1980 on the admission of aliens into the territory, residence, settlement and removal provides for a more severe penalty for persons who have used violence or threat to coerce someone into a marriage of convenience.

Furthermore, as already mentioned, the scope of the national action plan 2010–2014, adopted on 23 November 2010, has been extended to cover new forms of violence, including forced marriage.

Since 2009, there has been a specific indictment code for forced marriage in the databank of correctional chambers of courts of first instance. According to the figures, 12 cases of forced marriage were registered in prosecution services in 2010 and 15 cases in 2011. There is also a specific police code for this offence. Police crime statistics show 13 complaints of forced marriage (11 actual cases and two attempts) in 2010. Improved awareness on the part of victims and better detection by professionals will probably have the effect of increasing the number of complaints.

Mention may also be made of two bills, one to introduce a voluntary temporary prohibition on leaving the territory in cases of a forced marriage abroad, and the other to amend the Criminal Code in order to provide for the special case of forced marriage by fraud under the offence of trafficking in human beings.

In 2011, following the partnership established between the Brussels-Capital Region and the Federal State, a study on forced marriage was commissioned in the territory of the Brussels Region in order to obtain a better idea of the seriousness and extent of the phenomenon and to improve prevention and assistance in line with the specific needs of victims.

Specific training concerning forced marriage was also given to police officers and the Brussels Public Prosecutor's Office in 2012.

As part of the grassroots action carried out by the King Baudouin Foundation since 2004 on the theme "Marriage and migration" the Directorate for Equal Opportunity of the French Community has widely circulated among educators, mediators and mobile teams a brochure entitled "Holiday season: marriage season?". It was first distributed in June 2008 to all front-line associations in the Community. In June 2010 it was distributed to all psycho-medical-social centers, Walloon and Brussels mediators and members of mobile teams. This brochure is regularly sent free on request to actors on the ground and can be downloaded from the website of the Directorate for Equal Opportunity of the Ministry of the French Community (www.egalite.cfwb.be).

Since 2009, the French Community, in collaboration with the French Community Commission, has been providing substantial financial support to the "Marriage and Migration" network. This network for discussion and action is composed of 16 associations concerned with the issue of marriage in the context of migration, including forced marriage, early marriage, last-minute marriages, "grey marriages" (tricking into marriage for migration purposes), therapeutic marriages, arranged marriages, common-law marriages, etc. It provides training for professionals who may come into contact with persons in forced marriages and engages in information and awareness-raising activities.

The French Community also supports the circulation of a dramatized form of awareness training on forced/arranged marriages. Young people form the main target group, both within and outside formal education (open community assistance services [AMO], youth centers, etc.), but efforts are also made to reach parents through literacy centers, the goal being eventually to reach out to the entire French Community. In 2012, the French Community also financed the awareness-raising campaign "My marriage belongs to me", aimed at young men and women and launched in June by the "Marriage and Migration" network.

In 2010, the Walloon Region supported, as a pilot experiment, a private initiative designed to protect women under threat of forced marriage and to make young women aware of the problem. Unfortunately, the experiment was discontinued because of financial difficulties. In addition, two symposia organized by "*Synergie*

Wallonie” on the subject of forced marriage in collaboration with the federal police and the regional authorities. The symposia were followed by a publication.

The call for projects under the banner “Wanted: diversity managers”, as part of Flemish policy to promote integration, establishes a link between integration policy and equal opportunity policy. In 2010, the call for “Diversity managers” focused on marital migration. More than half of foreign-born young people of Turkish and Moroccan origin marry someone from their country of origin. In his call for project applications, the Minister of Integration encouraged discussion of the issue, through meetings, dialogues, talks with parents, and a lifting of taboos. In all, 15 projects were approved, for a total of € 979,643.04. The projects were launched in 2011 and were extended over a maximum period of three years.

6. Transposition of the EU Directive on rights, support and protection of victims of crime

I could not find any report, reference or mentioning of the performance of Belgium regarding the transposition of Directive 2012/29/EU. The GRETA report states that concerning internal legislation in Belgium: “it should above all be noted that, prior to a legislative amendment in 2005, the Law of 15 December 1980 on entry to the territory, stay, settlement and removal of foreigners contained a blanket provision, Article 77bis, which served in Belgian criminal law to cover the phenomena of trafficking in human beings, migrant smuggling and slum landlords (an individual renting out housing at excessive rates, where tenants live in undignified and insalubrious conditions) without really distinguishing between them. That provision did not define trafficking in human beings within the meaning of the Convention; in particular, it omitted any reference to the purpose of exploitation. The Law of 10 August 2005 introduced three stand-alone offences in Belgian law. As a result, trafficking in human beings is defined and prohibited by Articles 411quinquies to 433 novies of the Criminal Code. One major consequence has been that the criminalization of “trafficking in human beings” is no longer restricted to cases involving foreign victims. In addition, Article 77bis of the aforementioned law has been amended so that it now refers exclusively to “smuggling of human beings” whose constituent elements are similar to those in the international definition of migrant smuggling. Finally, the offence of operating as a slum landlord is now defined and prohibited by Articles 433decies to 433quinquiesdecies of the Criminal

Code. The Law of 29 April 2013, passed with a view to clarifying and extending the definition of trafficking in human beings, which was published on 23 July 2013, has amended Article 433*quinquies* of the Criminal Code (see paragraphs 50, 199 and 203).

In addition to the Criminal Code, the following legal instruments are relevant to combating THB:

- the Law of 15 December 1980 on entry to the territory, stay, settlement and removal of foreigners, as amended by Law of 15 September 2006, and which enshrines in its Article 61/2 to 61/5 a specific residence permit procedure for victims of trafficking, together with the Royal Decree of 27 April 2007 amending the Royal Decree of 8 October 1981 on entry to the territory, stay, settlement and removal of foreigners, which supplements the aforementioned law;
- the Law of 13 April 1995 containing provisions for combating trafficking in human beings and smuggling of migrants, which envisages, *inter alia*, the submission of a biennial report by the Government to Parliament and the possibility for NGOs specialized in the anti-trafficking field to bring legal action;
- the Royal Decree of 16 May 2004 on action against smuggling of migrants and trafficking in human beings which defines the role of the different actors involved in combating trafficking in human beings;
- the Royal Decree of 18 April 2013 on the status of specialised reception centers for victims of trafficking in human beings and of certain aggravated forms of smuggling of migrants and the authorisation to bring legal action;
- the Directive of the Minister of Justice of 14 December 2006 on investigation and prosecution policy in cases of trafficking in human beings, together with Circular no. COL 1/2007 of 17 January 2007 of the Bench of Appeal Court Prosecutors General relating to investigations and prosecutions of acts of trafficking;
- the Circular of 26 September 2008 on implementing multidisciplinary co-operation in respect of victims of trafficking in human beings and/or certain aggravated forms of smuggling of migrants, signed by the Ministers of Justice; Employment, Social Affairs and Public Health; Finance and Reforms; Migration and Asylum Policy; Foreign Affairs; and the President and members of the Bench of Prosecutors General (GRETA report pages 11-12).

According to the Belgian authorities, a “victim of an offence” is defined as any person

having suffered damage (pecuniary, non-pecuniary, bodily injury) resulting from a criminal offence. Victims of trafficking are afforded certain rights (reflection period, assistance, residence permit) triggered by their identification and resulting from the Law on entry to the territory, stay, settlement and removal of foreigners and the Circular of 26 September 2008 on the implementation of multidisciplinary co-operation concerning victims of human trafficking (GRETA report page 22).