

**Communication in accordance with Rule 9.2 of the Rules of the
Committee of Ministers regarding the supervision of the
execution of judgments by the *Orde van Vlaamse Balies*
(Flemish Bar Association / OVB)**

Vasilescu v. Belgium (no. 64682/12)

28 April 2026

The Flemish Bar Association (*Orde van Vlaamse Balies* or OVB) is the professional organisation for more than 11.000 lawyers in the Flemish part of Belgium. The OVB defends the rights and common professional interests of its members and those seeking justice, in accordance with its mission stated in article 495 of the Belgian Judicial Code, and provides advice to the legislative and executive branch regarding legislative proposals and policy measures affecting fundamental rights and the rule of law. As a bar association, the OVB is considered an NGO for the purposes of Rule 9.2. This communication falls within the framework of its statutory mission.

1 / The Vasilescu judgment

1. This communication concerns the case of Vasilescu against Belgium (64682/12) from the 25th of November 2014.¹ The European Court of Human Rights found a violation of article 3 of the European Convention on Human Rights for the inhuman and degrading treatment suffered by the applicant as a result of the material conditions of his detention at the prisons of Antwerp and Merksplas.

2. These conditions included insufficient personal living space exacerbated by having to sleep on a mattress placed directly on the floor for several weeks, poor access to running water and toilets, a lack of privacy in the use of toilets, exposure to passive smoking and reduced time out of the cell.

3. The Court recognised the structural nature of prison overcrowding in Belgium, issues of hygiene and the dilapidated condition of prison facilities.² It recommended the Belgian State to adopt general measures aimed at ensuring that prisoners are held in conditions compatible with article 3 of the Convention and to provide prisoners with an effective preventive remedy.³

4. Since the Judgment eleven and a half years ago, the Committee of Ministers has published no less than seven decisions on the group of cases, including one Interim Resolution, concerning general measures. The repeated concerns and recommendations have not led to structural improvements, quite on the contrary. The Belgian prison situation in terms of overcrowding and material conditions is worse than ever.

¹ ECtHR 25 November 2014, no. 64682/12, *Vasilescu v. Belgium*.

² *Ibid.*, § 127.

³ *Ibid.*, § 128.

2 / Introductory remarks

5. This communication is submitted in the context of the upcoming 1563rd human rights meeting (CM-DH) of 9-11 June 2026 with the aim of providing the Ministers' Deputies with the updated information, analysis and recommendations with respect to the respondent State's actions and omissions concerning the implementation of the Vasilescu judgment. It is based on the previous CM decision made at the 1514th Meeting on 3-5 December 2024 and the Action Plan of the Belgian government, submitted to the Department for the Execution of Judgments of the ECtHR on 27 March 2026 (hereafter the action plan).⁴ It draws, *inter alia*, from the official data presented by the Directorate-General for Penitentiary Institutions (DG EPI), the reports of the Central Prison Supervisory Council (CTRG)⁵ and the OVB and OBFG visitation reports 2025 and 2026⁶, based on the findings of the local Bar presidents exercising their legally embedded prison visitation right.⁷

6. The communication is structured around 9 concerns and instructions identified in the CM Decision from 5 December 2024.⁸ They are investigated, discussed and evaluated in light of recent developments and clustered in 3 sections: prison overpopulation (section 3), prison conditions (section 4) and legal measures and government actions (section 5). These sections are followed by conclusions (section 6) and the recommendations aimed at the full and effective implementation of the Vasilescu judgment (section 7).

3 / Overpopulation

3.1 / Regarding the CM's "deep concern regarding the continuing increase in the number of detainees, which appears higher than ever" and its urge that the authorities "adopt, without further delay, all required measures to resolve the problem of prison overcrowding everywhere"

7. The OVB notes that eighteen months after the publication of the latest CM Decision, this finding unfortunately still holds true. The number of detainees has further increased and is higher than ever (see graph below; for an evolution per region, see annex 1). In particular noteworthy is the extreme increase since and despite the emergency measures that entered into force in August 2025. This communication will elaborate on those emergency measures later. As of 15 April 2026, the average overpopulation rate is at 22%, the highest percentage since the Vasilescu judgment back in 2014 and an extreme increase of 10% compared to the moment of the previous CM Decision in December 2024.

8. Mechelen (with an overpopulation of 90,5%), Dinant (84,4%) Gent (58,9%), Antwerpen (56,7%), Mons (51,8%) and Lantin (51,6%) are the most problematic facilities. The latter, Lantin, has the highest overpopulation in absolute numbers: 384 inmates above the facility's holding capacities. Another 6 prisons have an overpopulation of over 40%.

9. From an European perspective, Belgium ranks among the top five countries presenting the highest prison density, well above the European median of 93,6%.⁹

⁴ Action Plan, DH-DD(2026)421 Vasilescu v. Belgium (Application no. 64682/12), 1563rd Meeting June 2026, 27 March 2026.

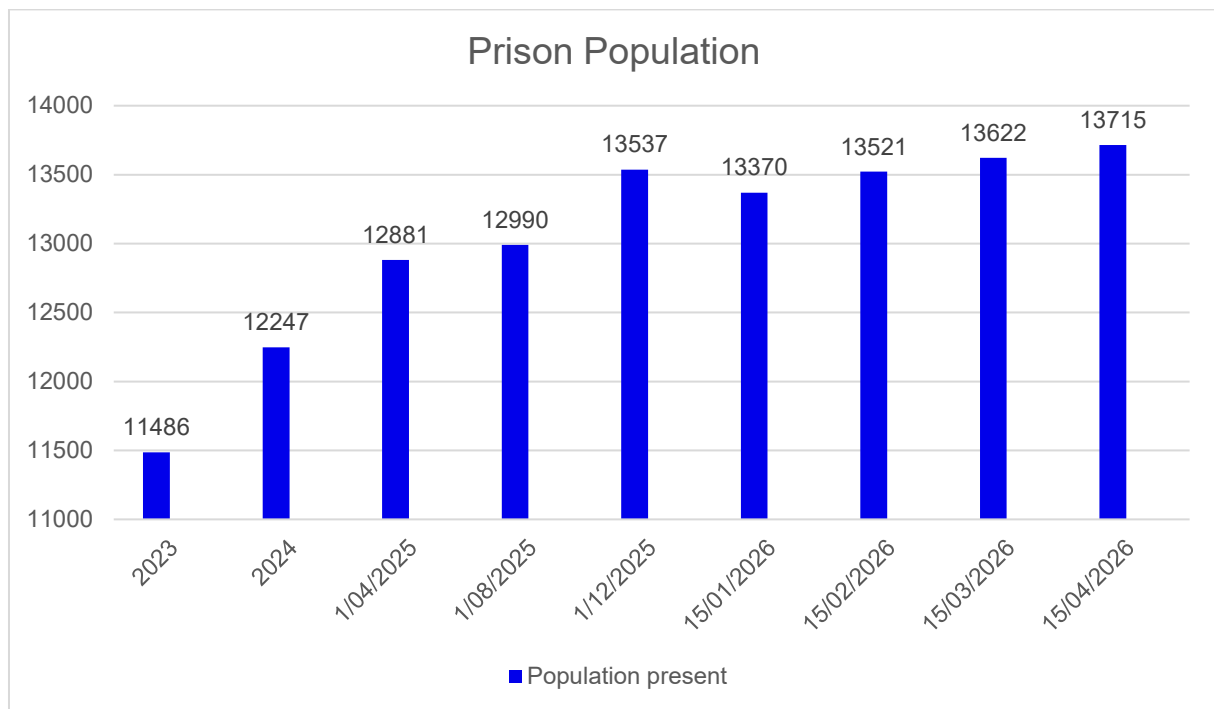
⁵ Publications - Conseil central de surveillance pénitentiaire

⁶ Orde van Vlaamse Balies, Visite stafhouders 10 december 2025, 5 February 2026; Avocats.be, Visites des établissements pénitentiaires par les bâtonnières et bâtonniers francophones et germanophone, 5 March 2026.

⁷ Article 33 Loi 12 Janvier 2005 de principes concernant l'administration des établissements pénitentiaires ainsi que le statut juridique des détenus.

⁸ Committee of Ministers of the Council of Europe, Vasilescu v. Belgium (Application No. 64682/12), 1514th Meeting (3-5 December 2024), CM/Del/Dec(2024)1514/H46-12.

⁹ CTRG, UPR submission: prison overcrowding and the imprisonment of persons with psychiatric conditions or internees in Belgium, 2025; M. AEI, E. COCCO, Council of Europe Annual Penal Statistics, SPACE I, 2024.



10. Amongst this prison population more than 1000 persons are deemed not criminally responsible for their actions and in need of individualized or special care in Forensic Psychiatric Centres outside of traditional prisons, yet another issue for which the Court has convicted the Belgian State numerous times.¹⁰

11. The action plan of the Belgian State from 27 March 2026 provides a good overview of the overpopulation and does not sugarcoat the problematic evolution.¹¹ However, one important piece of information is left undebated. In November 2024, the Justice Department launched a new internal directive temporarily suspending persons sentenced to a maximum of five years imprisonment from signing in to prison. Around 3.000 persons with a prison sentence are on the waiting list.¹² This number sheds an extra light on the extent of the problem.

12. More than ever, prison directors are sounding the alarm bell. They have made it abundantly clear that “every red line has been crossed” and that “the situation today is unprecedented”.¹³ Over the past years the overpopulation, combined with the impact on working conditions and safety, have led to many strikes and actions across all prisons in Belgium by both prison personnel as well as the prison direction, protesting the conditions and the humanitarian crisis and at one point even threatening to refuse admission of new prisoners.

13. With regard to capacity, the previous Minister of Justice stated on 18 September 2024 that projects in progress would result in a capacity of 11.500 places by early 2026.¹⁴ The OVB notes that this has not been achieved. Prison capacity has fluctuated and at one point rose to almost 11.300, but is now back to a level similar to the one at the end of 2024 (infra, 5.1).

¹⁰ E.g.: ECtHR 22 October 2012, no. 22831/08, L.B. v. Belgium; ECtHR 9 January 2014, no. 22283/10, Lankaster v. Belgium; ECtHR 6 September 2016, no. 73548/13, W.D. v. Belgium; ECtHR 6 September 2021, no. 46130/14, Venken and others v. Belgium; ECtHR 27 August 2024, no. 50058/12, B.D. v. Belgium.

¹¹ Action Plan, 13-17.

¹² 3.200 veroordeelde criminelen lopen vrij rond in België omdat ze geen plaats kunnen krijgen in de gevangenis | De Morgen

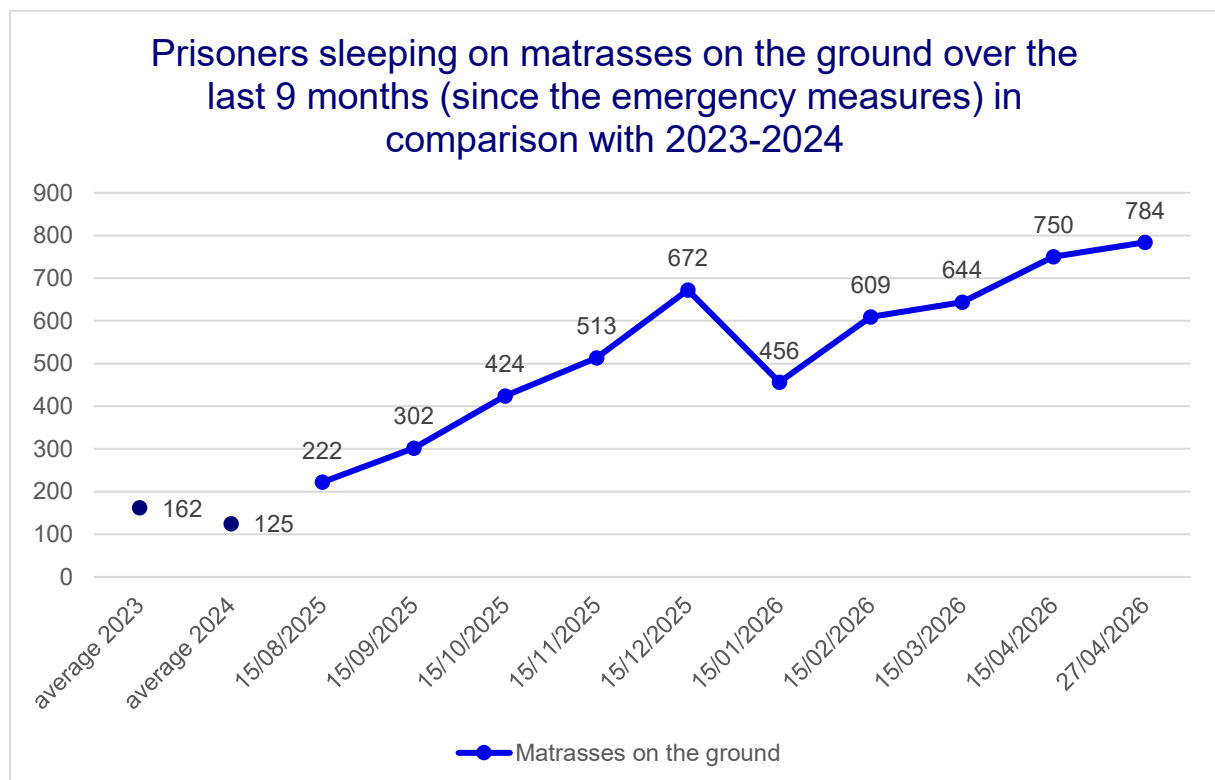
¹³ Gevangenisdirecteurs leggen het werk neer tegen “onmogelijke werk- en leefomstandigheden”: “We trekken het niet meer” | Nieuwsblad

¹⁴ Commission de la Justice, CRABV 56 COM 005, 18 September 2024, 8; Commission de la Justice, CRIV 56 COM 005, 18 September 2024, 10.

14. The new prison of Antwerp is planned to open in September 2026. Unfortunately, the capacity of 440 places will be a mere drop in the ocean against the background of the current situation. Originally conceived to replace the old Antwerp prison, the crisis calls for a prolonged use of the dilapidated building. On top of this, there are still 300 open vacancies for extra personnel that need to be filled urgently. Without sufficient staff, the new prison will not be able to take in prisoners and alleviate the overcrowding. Sadly, the overcrowding and the associated adverse working conditions seem to be in part responsible for the recruiting difficulties. The Minister of Justice is looking to outsource a couple of tasks to private security companies, which has raised serious concerns from the CTRG and the prison unions.¹⁵

15. The action plan also mentions additional detention and transition houses to be opened in the next couple of years, but even with the inclusion of those without a projected opening year, this will be limited to 350 places somewhere after 2028.¹⁶

3.2 / Regarding the CM's urge that the authorities put an end to the use of mattresses on the floor



16. At the time of the previous CM Decision in 2024, around 100 detainees were forced to sleep on a mattresses placed directly on the floor. This matched the average numbers of detainees sleeping on the floor throughout the rest of 2024 and was slightly lower than the relevant numbers for 2023. While already highly problematic, the number has since then exploded (see graph above). On 27 April 2026, a record 784 prisoners in 20 different penitentiary institutions were forced to sleep on a mattress on the floor.¹⁷ This is an increase of 140 ground sleepers in only six weeks time. To put this into perspective:

¹⁵ [Minister Verlinden wil privébewakingsagenten inzetten in de gevangenis. Is dat een goed idee? | De Standaard](#)

¹⁶ Action Plan, 36-37.

¹⁷ [Bijna 800 gedetineerden zonder bed, aantal grondslapers was nog nooit zo hoog: "Nieuwe maatregelen zullen niet helpen" | Nieuwsblad](#)

the number of ground sleepers alone is currently higher than the capacity of the second largest prison in Belgium. In absolute numbers, Haren (200), Antwerpen (58), Marche-en-Famenne (50) and Gent (46) are worst off.

17. Many mattresses are placed in cells that were originally built for single occupancy, but are already fitted with bunk beds. This means that in many prisons, three prisoners are housed in a cell of 9-10 m² including a toilet, where they often spend 23 hours a day. In Leuven Hulp, for example, more than 30% of the prison population is housed in such cells. Elsewhere, for example in Antwerp, there are also cells designed for four people in which eight prisoners are housed. The situation is so problematic that prisoners occasionally ask to be placed in the solitary confinement cell, despite the appalling condition it is in.¹⁸

4 / Prison conditions

4.1 / Regarding the CM's request to adopt rapid measures to improve the poor material conditions of detention

18. The Presidents of the local Bars have visited the Belgian prisons in 2024 and 2025 on December 10th, the international Human Rights day. Over the past year, they have observed little to no improvements regarding the material conditions of detention¹⁹. With a couple of exceptions, the prison infrastructure is extremely outdated and dilapidated. In those cases, minor adaptations will not suffice to create conditions up to modern standards. Due to the extreme overpopulation, the old and totally decrepit prisons of Dendermonde and Sint-Gillis were reopened without proper renovations. "An absolute disgrace", in the words of the visiting Bar Presidents.

19. On 18 February 2025, the Brussels Court of Appeal has confirmed those observations when it convicted the Belgian State (again) for the degrading material conditions in Sint-Gillis.²⁰ The judgment stated that the prison is so dilapidated and unhygienic that the conditions of detention are inhumane, and the working conditions of the staff are unacceptable. The court also referred to the annual reports of the Central Supervisory Board of Sint-Gillis: cells with mould, without heating, chairs or windows, no showers for 10 days due to a broken boiler or strikes, rats, the kitchen closed for several weeks because it no longer meets FASFC standards, ...

20. The poor material conditions reported by the Bar Presidents are also plentiful and observed in many different prisons. In several of them, the toilets are still not separated from the rest of the prison cell (e.g. Antwerp, Oudenaarde, Gent). An improvised curtain is unable to remedy the lack of privacy and hygiene. The severity of this problem is obviously made worse by the overcrowded cells and the mattresses on the ground (next to the toilet).

21. Other reported problems include, but are not limited to defective sanitary facilities (Gent), presence of vermin (Antwerpen), an overloaded electricity grid hindering the preparation of food for all prisoners (Hasselt), the non-execution and repeated delays of necessary modification and repair work (Merksplas), etc.²¹

22. Additionally, some reports highlight that the extreme overcrowding, the lack of privacy and the deterioration of physical conditions exacerbates tensions and violent incidents between prisoners and towards staff and that it has a direct impact on prisoners' physical and mental health.²² The overpopulation puts excessive pressure on medical and psychosocial services.

¹⁸ Orde van Vlaamse Balies, [Visitatie stafhouders 10 december 2025](#), 5 February 2026, 2-3.

¹⁹ Orde van Vlaamse Balies | [Tweede visitatierapport vernietigend voor...](#)

²⁰ Court of Appeal Brussels 18 February 2025, (1st Chamber F), 2019/AR/569.

²¹ Orde van Vlaamse Balies, [Visitatie stafhouders 10 december 2025](#), 5 February 2026, 3.

²² [Avocats.be, Visites des établissements pénitentiaires par les bâtonnières et bâtonniers francophones et germanophone](#), 5 March 2026, 5.

23. There is a structural shortage of medical assistance.²³ In Antwerp for example, the doctor has to examine 70 to 100 patients in 4 hours. In Leuven Central, medical facilities are “from a different century” and in several other places, prisoners will have to be transported to other prisons to receive adequate medical assistance. The same structural problem exists with regard to mental health; there is a shortage of psychologists and psychiatrists working in prisons, which leads to long waiting lists.²⁴ Improvements are nonetheless vital: the suicide rate in Belgian prisons is 25% higher than the European median.²⁵

24. The OVB concludes that the living conditions in the Belgian prisons have not improved since the latest CM Decision.

4.2 / Regarding the CM’s request to transmit detailed information on the authorities’ efforts regarding out-of-cell activities of all detainees

25.. With regard to out-of-cell activities, the action plan provides very little of the requested information. It limits itself mainly to mentioning the goal of expanding the “open-door” system and exploring the possibilities for a progressive regime.²⁶ The reality on the field is however quite different. The new prison of Haren was initially conceived as an open door system, but the overpopulation forced the prison to abandon this idea from the get go.

26. Out-of-cell activities and initiatives that can be a valuable part of the prisoner’s rehabilitation and future re-integration are severely lacking. They are inherently limited due to the lack of infrastructure, but this is aggravated because of the overpopulation. Overcrowding affects the day-to-day functioning of the institutions, leading to restrictions on exercise, the cancellation of activities and limited access to work.

27. Additionally, there is a severe shortage of prison personnel in several prisons.²⁷ As the population grows, the workforce does not grow proportionally at the same rate. Staff shortages naturally lead to increased workloads and growing mental strain on the staff, which leads to regular sick leave (e.g.: during the visitation, a quarter of the personnel in Haren was on long-term sick leave). This in turn has created more phasing out of various activities and the creation of waiting lists, forcing prisoners to spend up to 22-23 hours in their overcrowded cells.

28. Gent, for example, no longer offers any fitness classes and training courses are being cancelled. In Haren, walks are dependent on the number of staff members who are on sick leave. In Tongeren, there are plans to focus on garden therapy, but the current situation makes this virtually impossible. In Hasselt, the prison direction wants to focus on re-integration projects, but simply lacks the capacity to do so. Similarly, in Antwerp, there is not enough personnel to continue with rehabilitation and reintegration.²⁸

29. The OVB concludes that the prison infrastructure and the overpopulation fuel a vicious circle in which the deterioration of working conditions directly contributes to the deterioration of the treatment of prisoners, their out-of-cell activities and their re-integration. The Belgian authorities fail to address this structural reason for the lack of out-of-cell activities in their action plan.

²³ Ordre des Médecins, Recommandations déontologiques pour le respect de la dignité humaine et de la qualité des soins de santé dans les prisons, 12 September 2025.

²⁴ Orde van Vlaamse Balies, Visitatie stafhouders 10 december 2025, 5 February 2026, 5.

²⁵ M. AEBI, E. COCCO, Council of Europe Annual Penal Statistics, SPACE I, 2024, 108-109.

²⁶ Action Plan, 25.

²⁷ E.g.: On the day of the visitation by the Bar Presidents, Gent reported only 145 active staff members on a theoretical framework of 188 (which is calculated on full capacity without overpopulation to start with) and Hasselt mentioned a shortage of 25 full time equivalents; On the 6th of January, there was a total shortage of 300 full time equivalents across all Belgian prisons.

²⁸ Orde van Vlaamse Balies, Visitatie stafhouders 10 december 2025, 5 February 2026, 3-4.

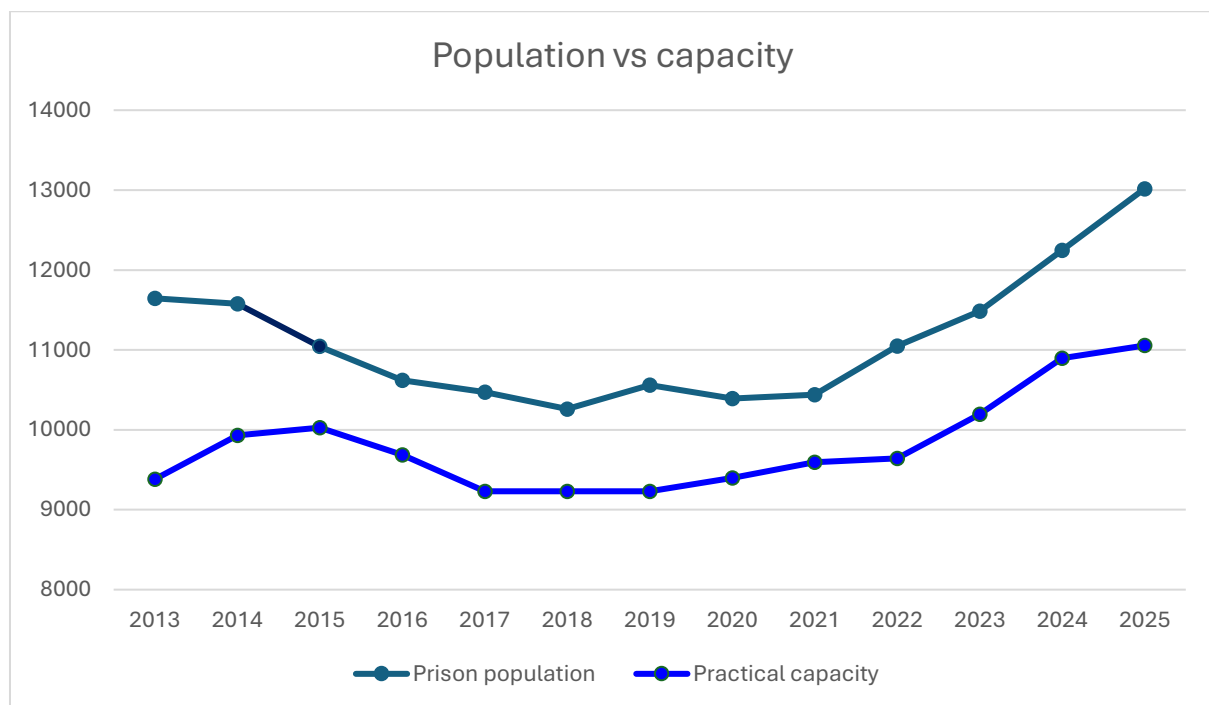
5 / Government policies and actions

5.1 / Regarding the CM's urgent call on the authorities to focus their efforts on achieving a sustainable reduction in the prison population and not on increasing capacity

30. From 2022 to 2024, prison capacity increased significantly with the opening of Haren prison. As mentioned earlier, this has plateaued since. The new prison in Antwerp and some smaller detention and transition houses will create a further increase in the near future, but nowhere near to what is necessary.

31. This increase exists for those sentenced to long prison terms as well as for those with short sentences (less than 3 years) (see annex 2). The latter is not surprising in light of the gradual implementation of the execution of short prison sentences since September 2022.²⁹ The authorities had intended that most of those short sentences would be served in detention houses, but the impact of the change was underestimated and the development of detention houses has been slower than planned.³⁰

32. The reality is that prison capacity has been trailing behind the ever increasing prison population for many years and that the planned capacity will not solve overcrowding (see 3.1). It is a well-known effect not unique to Belgium, that the more places are available, the more persons will be imprisoned (see graph below).³¹



33. Despite the measures taken, the population has risen further (see 5.2). The CM's urgent call to focus on reducing the prison population sustainably instead of increasing capacity is therefore vital for

²⁹ For many years, such sentences were regulated through ministerial circulars and implemented directly by the prison administration. Under this framework, convicted individuals were typically placed under electronic monitoring immediately and subsequently conditionally released. Responsibility for granting enforcement modalities has shifted to the sentence enforcement judge, who has to apply stricter conditions. As a result, a larger number of convicted offenders sentenced to up to three years are effectively detained pending the decision of the sentencing judge, who may determine the conditions of their sentence.

³⁰ CTRG, UPR submission: prison overcrowding and the imprisonment of persons with psychiatric conditions or internees in Belgium, 2025.

³¹ Penitentiary Policy Council, *Avis 1 – Surpopulation carcérale*, December 2024, 6.

structurally solving this humanitarian crisis. According to the SPACE statistics of 2024 (thus even before the expansive increase over the past 18 months), the prison population per 100.000 inhabitants is amongst the highest in Western European countries.³² Yet, a lot of the government's time and resources still goes into increasing capacity.³³ This is despite the fact that government itself admits that 1) the increase in prison capacity has not resolved prison overcrowding³⁴ and 2) new prisons create a pull factor: *"l'ouverture de Nouvelles prisons de Haren et de Termonde observe également un certain effet d'attraction, l'afflux de nouveaux détenus semblant augmenter de manière significative."*³⁵

34. In search of extra capacity, the government explores, among others, the possibility of installing modular structures. The OVB expects the authorities to respect its obligations under international law and to ensure that the conditions are humane and safe, as the action plan promises. The government is also looking into bilateral agreements to transfer prisoners to facilities built in Albania, Kosovo and Estonia. Besides the obvious human rights concerns³⁶, the practical efficiency of such initiatives to tackle overcrowding is questionable. The action plan talks about "following the Danish example". Denmark signed an agreement with Kosovo for the detention of 300 people. The agreement was announced in December 2021, but not a single detainee has yet been transferred to Kosovo (the prison is expected to be operational in April 2027). It is even more expensive (in the case of Denmark reportedly 21 million euro per year³⁷) than what prisoners in Belgium cost the government.³⁸

35. The authorities correctly argue that the new Criminal Code, which enters into force (with delay) on 1 September 2026, describes the prison sentence as the *ultimum remedium*. In terms of actual measures however, little can be found to bring that intention into practice and have a considerable impact on prison overpopulation. We refer in that regard to the analysis of the Federal Human Rights Institute in its previous Rule 9 communication.³⁹

36. In conclusion, the action plan lacks a clear-cut ambition from the government to comply with this part of the CM Decision. Specific goals to reduce the prison population below for example 10.000, as was provided in the action plans before 2023, are entirely missing.⁴⁰

5.2 / Regarding the CM's invitation to the authorities to draw up a comprehensive plan to combat overcrowding, based on an integrated and systematic approach to all its factors

37. The Belgian authorities continue to fail to draw up a comprehensive plan to reduce prison overcrowding in a structural way.

38. On 4 August 2025, a temporary Emergency Law entered into force.⁴¹ In short, it introduced the following measures: judges must consider the prison sentence as a last resort and only impose it if no alternative punishments are available; people with short prison sentences can be released under conditions more easily after a third of their sentence or receive other enforcement arrangements

³² M. AEBI, E. COCCO, *Council of Europe Annual Penal Statistics, SPACE I*, 2024, 34.

³³ Action Plan, 4-7; *Note de Politique Générale – Justice*, DOC56-0856/017, 22 April 2025, 47-49.

³⁴ Action Plan, 7.

³⁵ Action Plan, 17.

³⁶ Prison conditions, equal treatment of prisoners, access to a lawyer, etc. Additionally, Kosovo is not a member of the Council of Europe or party to the ECHR.

³⁷ Excluding prisoner transport and medical assistance.

³⁸ *Orde van Vlaamse Balies | Voorzitter op vrijdag: "Constructief...":* this information is based on communication with the Danish Bar & Law Society.

³⁹ IFDH, *Communication au Comité des Ministres du Conseil de l'Europe, au sujet de l'exécution de l'arrêt Vasilescu c. Belgique*, DH-DD(2024)1278, 1514th Meeting December 2024, 5 November 2024, 21-22; IFDH, *Avis n° 2022/15* concernant l'avant-projet de loi portant le Livre 1^{er} dans le cadre de la réforme du Code pénal, 2 décembre 2022.

⁴⁰ CTRG, *Surpopulation carcérale: d'une loi d'urgence pour les prisons à l'urgence d'une réflexion au sujet de l'emprisonnement*, 17 July 2025.

⁴¹ Loi 18 Juillet 2025 portant des mesures afin de réduire la surpopulation dans les prisons et introduisant l'impossibilité de principe d'exécuter la surveillance électronique au lieu où la victime réside, BS 4 August 2025.

(electronic monitoring, limited detention); in principle, those serving sentences up to 10 years will be released 6 months early.

39. The action plan mentions that 370 individuals in custody for long-term sentences were on early release as of 12 March 2026 (see annex 3)⁴², but this is obviously insignificant in view of the extent of the problem.

40. DG EPI's monitoring of the Emergency Law illustrates that the sentence of more than 1500 individuals has been suspended/interrupted in the context of the Emergency Law (see annex 4). Yet, the measures still do not have anywhere near a big enough impact to stop the further increase in prison population since August 2025 as illustrated under 3.1.

41. The same can be said with regard to alternative measures: they are imposed more often since the entry into force of the Emergency Law, but unfortunately do not function as communicating vessels with the prison sentences. Both types of punishments are increasing at the same time (see annex 5 for the evolution of individuals under electronic monitoring). Consequently, these measures are additional rather than alternative.⁴³

42. With particular regard to modalities imposed by the "*juge d'application de peine*" (sentence enforcement judge) for short-term sentences, we notice a lot more positive decisions concerning electronic surveillance since the entry into force of the Emergency Law. Despite the modified conditions and the awareness-raising campaigns for judges, the number of positive decisions on conditional release have however not increased (see annex 6).

43. It is clear that this package of measures has not been successful in combatting prison overpopulation. On 20 March 2026, the government reached a political agreement on additional emergency measures, including the electronic monitoring for individuals convicted to a prison sentence of up to 18 months and the possibility of early release with an electronic bracelet 18 months before the end of a prison sentence of maximum 10 years.

44. The first reactions from experts and people in the field have been lukewarm at best. Some even claim that the pressure on prisons might increase if all persons convicted to a prison sentence under 18 months are automatically placed under electronic surveillance. Many of these individuals are currently not in prison, but they might end up there when violating the strict conditions for electronic surveillance.⁴⁴

45. While the legislative preparations are still under way, this appears to be another bundle of separate measures without a comprehensive plan. In fact, the Minister of Justice has already lowered expectations herself by stating that the newly agreed upon measures will not solve the problem of ground sleepers.⁴⁵

46. For a comprehensive plan against prison overpopulation, the CM has in the past referred to the importance of the establishment of the Penitentiary Policy Council. The Council is operational since 2024 and has already published several Opinions on prison overcrowding⁴⁶ elaborating very much on the same problems and shortcomings covered in this Rule 9. The authorities however have done very little to take on board the Council's recommendations.⁴⁷ The Council has criticised how it was informed very late on the proposed emergency measures and has also acknowledged the lack of impact of the emergency measures after an evaluation on the ground.

⁴² Action Plan, 8.

⁴³ CTRG, Surpopulation carcérale: d'une loi d'urgence pour les prisons à l'urgence d'une réflexion au sujet de l'emprisonnement, 17 July 2025, 8.

⁴⁴ Gevangenisakkoord: lossen enkelbanden overbevolking op? | De Standaard; This effect has also been described by Penitentiary Policy Council, Avis 1 – Surpopulation carcérale, December 2024, see also S. SNACKEN, "Analyse des mécanismes de surpopulation pénitentiaire", in Ph. Mary and Th. Papatheodorou (ed.), *La surpopulation pénitentiaire en Europe*, Brussel, Bruylant, 1999, 22; Court of Audit, "Maatregelen tegen de overbevolking in de gevangenissen", December 2011, 73.

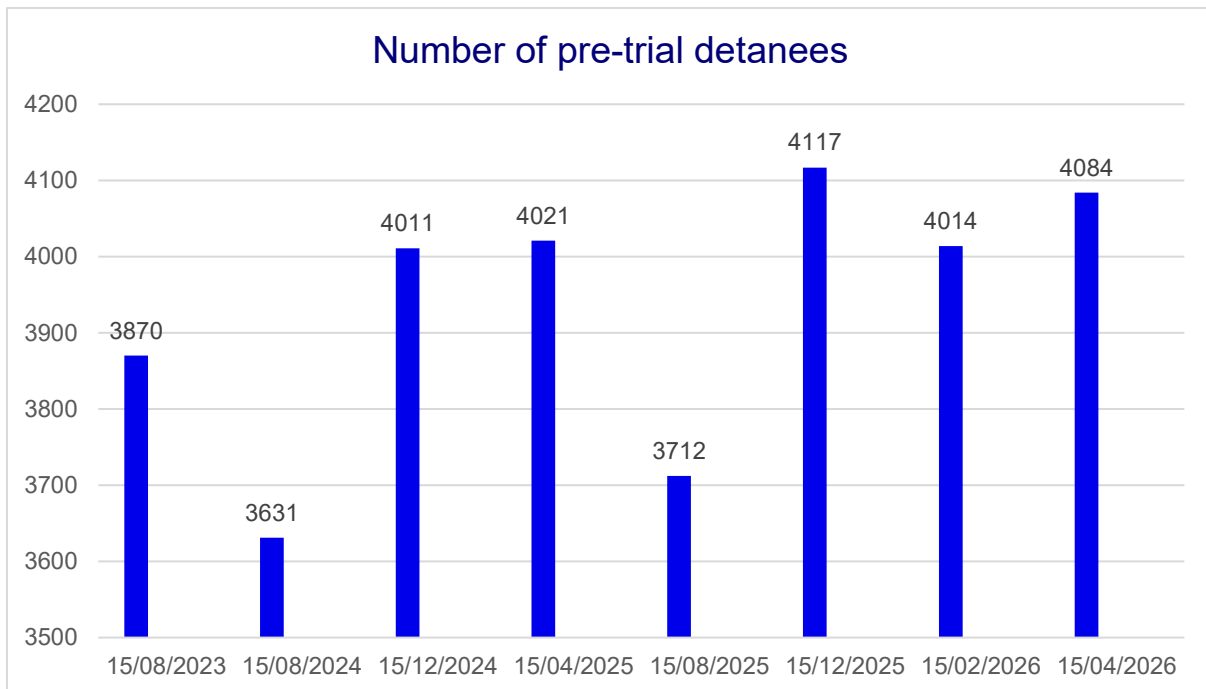
⁴⁵ Akkoord overbevolking gevangenissen: veroordeelden met celstraffen tot 18 maanden krijgen enkelband | VRT NWS Nieuws
⁴⁶ Conseil pénitentiaire | Service public federal Justice

⁴⁷ Penitentiary Policy Council, Avis 4 – Surpopulation carcérale, 4 December 2025; Penitentiary Policy Council, Surpopulation carcérale: mesures urgentes à prendre en raison de la situation d'urgence, 30 March 2026.

47. Another initiative is the establishment of the Commission on Prison Overpopulation. This is in itself a positive development, but comes far too late. Moreover, it is not clear how the mission of this commission relates to the somewhat overlapping mission of the Penitentiary Policy Council. The Vasilescu judgment is over a decade old and the problem of prison overcrowding goes back even further. It is problematic that scientific research into a evidence-based, integrated and sustainable approach to criminal justice policy and prison sentences has only now started. The final report of the Commission is not due until 2028 and obviously does not guarantee any political and legislative measures afterwards.

5.3 / As regards the CM's invite to the authorities to reduce the use of detention on remand and its length

48. Since the last CM Decision (and even before that), the rate of pre-trial detainees compared to the total number of prisoners has fluctuated between 28 and 32 % (15 April 2026: 29,78%). With the exception of the Summer of 2025, the absolute number of pre-trial detainees has also remained more or less stable (see graph below). The median length of the detention on remand also remains relatively high.



49. Neither the 2023 amendments to the Law of 20 July 1990 on pre-trial detention, as cited in the action plan, nor the aforementioned Emergency Law from August 2025 has had any impact on this issue (see annex 2 for a more detailed evolution since the Emergency Law). Moreover, detention on remand is inexplicably a total blind spot in the political agreement on additional emergency measures from 20 March this year. The reported awareness-raising initiatives for judges have not yielded any results either.

50. The aforementioned Commission on Prison Overpopulation does have a Working Group on pre-trial detention. Preliminary findings of the Working Group look in the direction of practical, science-based changes rather than legal ones, but as with the Commission at large, a final report is only due in 2028.

51. For now though, pre-trial detention is applied generously. Although formally not allowed, many still believe remand is used as a swift and effective form of punishment. Even in cases where the pre-trial chamber orders the release of the suspect, the public prosecution will often still lodge an appeal suspending the release.

52. The high proportion of people in pre-trial detention obviously contributes significantly to overcrowding. In Hasselt, for example, this accounts for a quarter of the prisoners, whilst in Oudenaarde as many as half of the prison population is in pre-trial detention. As the risk of escalation and incidents is much higher with those who are convicted for long prison sentences, the overcapacity in Oudenaarde is entirely accommodated within the group of pre-trial detainees, i.e. people who have not yet been convicted. In Hasselt, this is handled differently: those in pre-trial detention who do not fit within the 105 places provided for this purpose are simply housed amongst those who have been definitively convicted. This is however just as problematic. Hardened criminals take advantage of the situation to exert pressure on young people who are in prison for the first time and recruit them to join their networks, inside and later outside of the prison walls.⁴⁸

53. It is also important to note that individuals in pre-trial detention are not permitted to carry out prison labour under any circumstances. Although they are still presumed innocent at that stage, this means they have to spend even more time in the appalling conditions of their cells than other prisoners. Similar to those not criminally responsible for their actions, pre-trial detainees are another group of persons that are hit extra hard as a consequence of the humanitarian crisis in the Belgian prison system.

5.4 / Regarding the CM's exhortation to the authorities to take concrete measures to establish, without further delay, a specific preventive remedy for convicted persons and pre-trial detainees, capable of rapidly putting an end to violations of Article 3

54. The action plan mentions that "Belgium has continued its deliberations on the establishment of an effective preventive remedy", but admits that it has not yet been possible to draft a legislative proposal on the matter.⁴⁹ The authorities mention that a commission established to develop a plan regarding a sustainable solution to structural overcrowding is tasked with making a proposal regarding the creation of such a remedy.

55. The OVB is critical of yet another round of discussions on the issue and recalls the long-standing nature of the recommendation, going back all the way to the first CM Decision on Vasilescu in September 2016. Presently, the Belgian authorities have still not taken any concrete steps to introduce an effective preventive measure in line with the CM Decisions.

5.5 / Regarding the CM's encouragement to the authorities to adopt binding prison regulation measures

56. Over the years, the idea to adopt binding prison regulation measures has been raised recurrently. In fact, the initial draft of the Belgian Prison Act of 2005 included a provision to enforce a maximum capacity per prison as a form of prison regulation, which the High Council of Justice has supported. In 2024, the FPS Justice reaffirmed the importance of establishing a prison capacity quota.⁵⁰ Stakeholders such as the CTRG⁵¹, academics and prison directors have all stressed that a setting a maximum capacity is essential.⁵² During a protest action of the prison directors on 1 October 2025, they called for strict quota to limit the prison population.⁵³

57. The aforementioned, newly created Penitentiary Policy Council has also recommended the need for a mechanism for regulating prison capacity.⁵⁴

⁴⁸ Orde van Vlaamse Balies, Visitatie stafhouders 10 december 2025, 5 February 2026, 2.

⁴⁹ Action Plan, 27.

⁵⁰ FPS Justice, Memorandum, 2 July 2024.

⁵¹ CTRG, Une indispensable initiative en matière de régulation carcérale, 10 February 2025.

⁵² CTRG, UPR submission: prison overcrowding and the imprisonment of persons with psychiatric conditions or internees in Belgium, 2025.

⁵³ CTRG, Le CCSP soutient l'appel des directeurs de prison face à l'urgence carcérale, 1 October 2025.

⁵⁴ Penitentiary Policy Council, Avis 1 – Surpopulation carcérale, December 2024, 15-17.

58. Newer prisons under DBFM-contract (Design Build Finance Maintain⁵⁵) de facto already have a quota. In Haren for example, an additional correction fee for maintenance costs is charged in case of overpopulation of more than 15%.⁵⁶ This is however of little relevance for prisoners. If anything, it might persuade the authorities to concentrate the overpopulation more in the dilapidated older prisons.

59. By lack of a structural approach, several mayors have taken matters into their own hands to put an end to disturbances of public order by limiting the number of prisoners within the prisons of their jurisdiction based on the New Municipal Act of June 1988. These local forms of regulation are however far from ideal because it shifts the problem to other prisons.⁵⁷

60. The OVB concludes that no structural improvements on this issue were made and that the authorities fail to properly address the intentions on this matter in its contribution.

6 / Conclusions

61. The OVB concludes that the Belgian government has so far failed to align with almost all of the recommendations made by the Committee of Ministers during the 1514th Meeting in December 2024 and to take measures that effectively and sustainably reduce prison overcrowding and consequently provide guarantees for protecting prisoners against inhumane and degrading treatment.

62. Over the past 18 months, the situation has further deteriorated significantly. The population and the number of prisoners sleeping on mattresses directly on the floor have increased to record heights. They are housed in often dilapidated infrastructure, in inhumane and degrading conditions. Overcrowding and the fact that prisoners are consequently crammed together create a tense and unsafe atmosphere. They have limited access to activities outside their cells (work, education), exercise, visits and medical care. This is aggravated by the shortage and absence of staff, which also has an impact on rehabilitation and re-integration.

63. Amongst the prisoners is a considerable share of pre-trial detainees who have not yet been convicted and persons who are not criminally responsible for their actions and require specialized care outside of traditional prisons.

64. While the August 2025 emergency measures have failed to provide any positive impact on the crisis, there is neither a comprehensive plan to combat overcrowding nor a specific ambition to reduce the number of prisoners structurally. Despite the longstanding nature of the problem, research into more evidence-based solutions is only now being conducted by a newly appointed Commission on Overpopulation. Meanwhile, Opinions by the Penitentiary Policy Council and recommendations from the CTRG are largely ignored.

7 / Recommendations

65. Considering all of the above, the OVB respectfully requests the Committee of Ministers to exhort the authorities of Belgium to carry out the recommendations below, which are based on the CM's previous guidance and take into account the latest developments, so as to fully and effectively implement the present judgment.

The OVB requests to adopt as soon as possible all appropriate measures to resolve the problem of prison overcrowding everywhere, and in particular to:

⁵⁵ This procedure is used in the context of public-private partnerships.

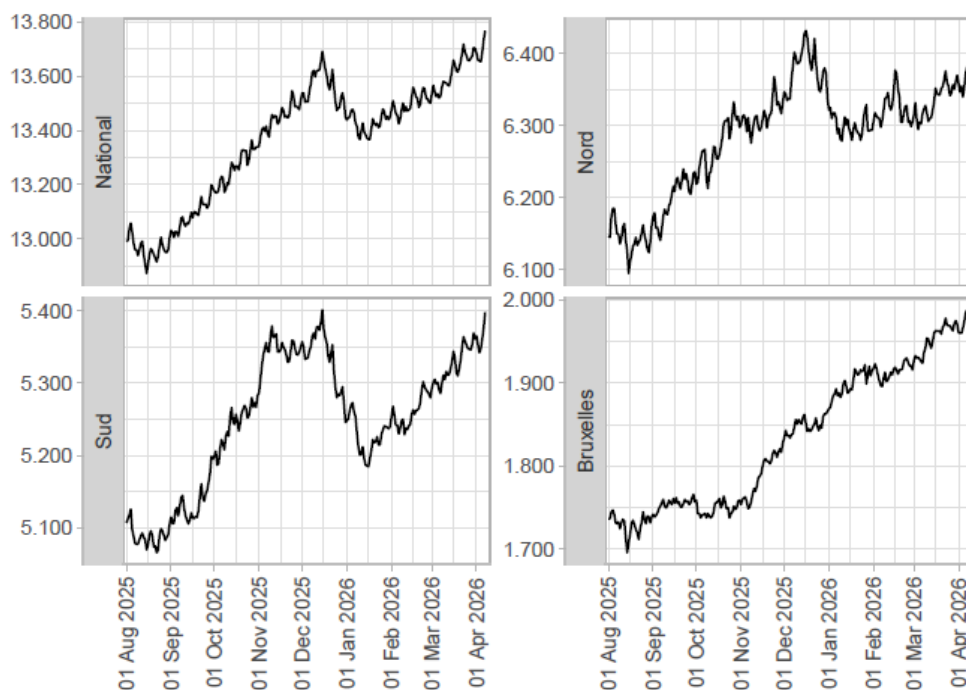
⁵⁶ K. BEYENS, "De gevangenis van Haren: opportuniteit of gemiste kans?", *Panopticon* 2022, no. 43 (6), 552.

⁵⁷ Penitentiary Policy Council, Avis 1 – Surpopulation carcérale, December 2024, 17.

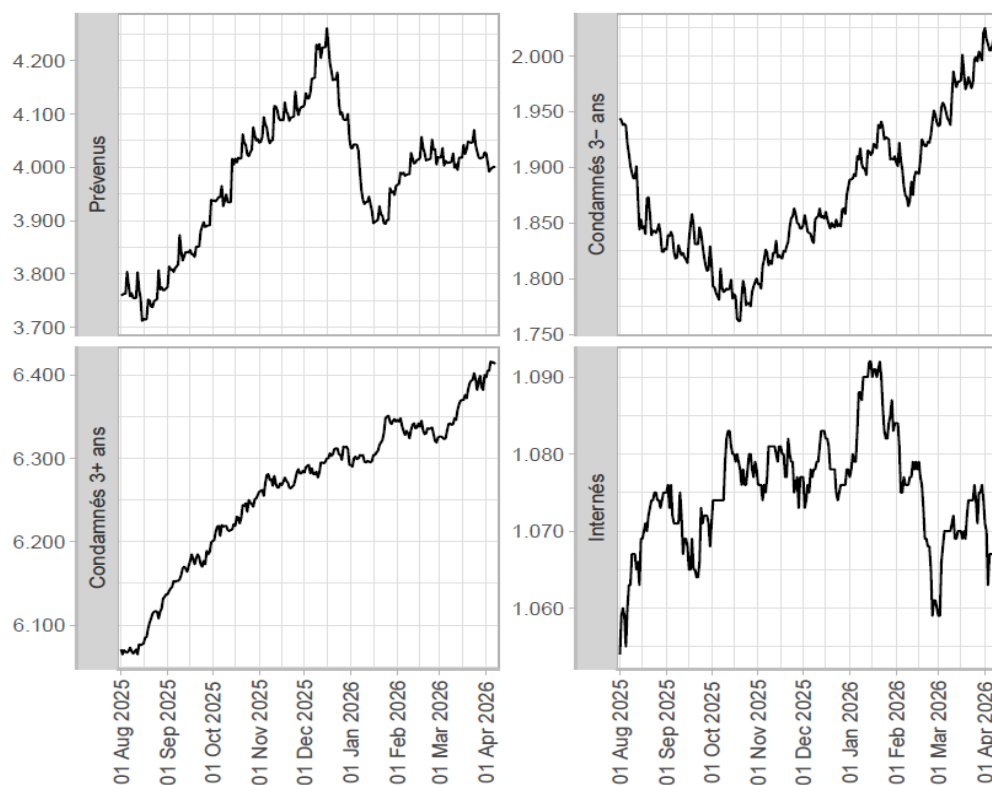
1. Prioritize ending the use of mattresses on the floor;
2. Significantly improve the material conditions of detention so that the infrastructure and treatment in all Belgian prisons comply with international law and meet the CPT requirements on humane detention conditions;
3. Take appropriate measures to guarantee the prisoners' rights to privacy and to physical and mental health, such as providing a separate and private toilet area in multi-person cells and organizing more regular doctor visits (general practitioners, psychologists/psychiatrists, dentists) and/or more medical staff/infrastructure on the premises;
4. Provide more concrete information on out-of-cell activities (time spent outside, types of activities, available infrastructure, prison work and possible waiting lists, ...), the impact of overpopulation and staff shortage on these activities and to adopt tangible measures aimed at resolving the relevant problems understaffing creates;
5. Invest resources towards the recruitment of sufficient prison staff as a vital part of improving living conditions and to ensure that rehabilitation and re-integration of prison population is effective in practice;
6. Use the existing collective expertise, opinions and recommendations from the CTRG, the Penitentiary Prison Council and civil society to draw up, without further delay, a comprehensive, evidence-based plan on criminal justice to combat prison overcrowding, based on an integrated and systematic approach to all its factors, and to take measures accordingly;
7. Instead of increasing prison capacity, give precedence to sustainable measures to reduce the number of imprisonment cases below a set goal, including the adoption of a comprehensive plan to decrease recidivism with specific attention to rehabilitation and re-integration;
8. Take measures to reduce the number of pre-trial detainees, such as highlighting the ultimatum remedium principle inherent to detention on remand, additional awareness-raising for judges, improving the cooperation with other professional services and the re-introduction of monthly controls after the fourth enforcement decision;
9. Adopt binding prison regulation measures forthwith;
10. Establish without further delay an effective preventive remedy capable of putting an end to violations of article 3 ECHR;
11. The Flemish Bar Association respectfully invites the Committee of Ministers to consider introducing in their coming decisions a reference to the possibility of issuing a new Interim Resolution at the CM-DH meeting after next, should the authorities continue to flagrantly fail to adopt meaningful and tangible measures to sustainably address the prison overcrowding problem.

ANNEXES

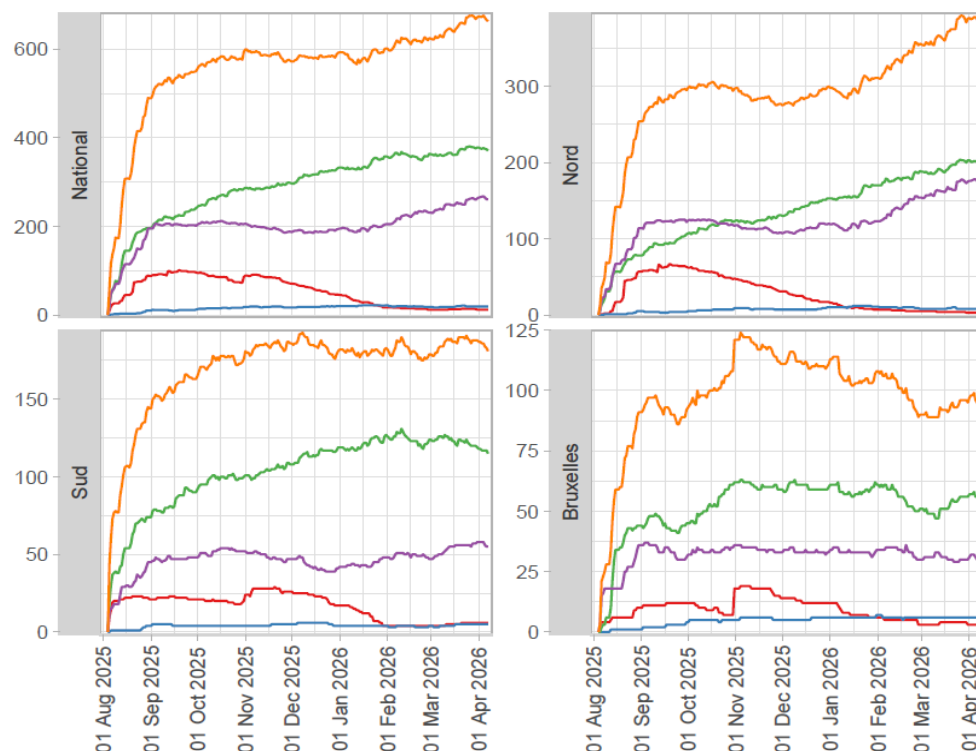
Annex 1: evolution of prison population per region since the Emergency Law



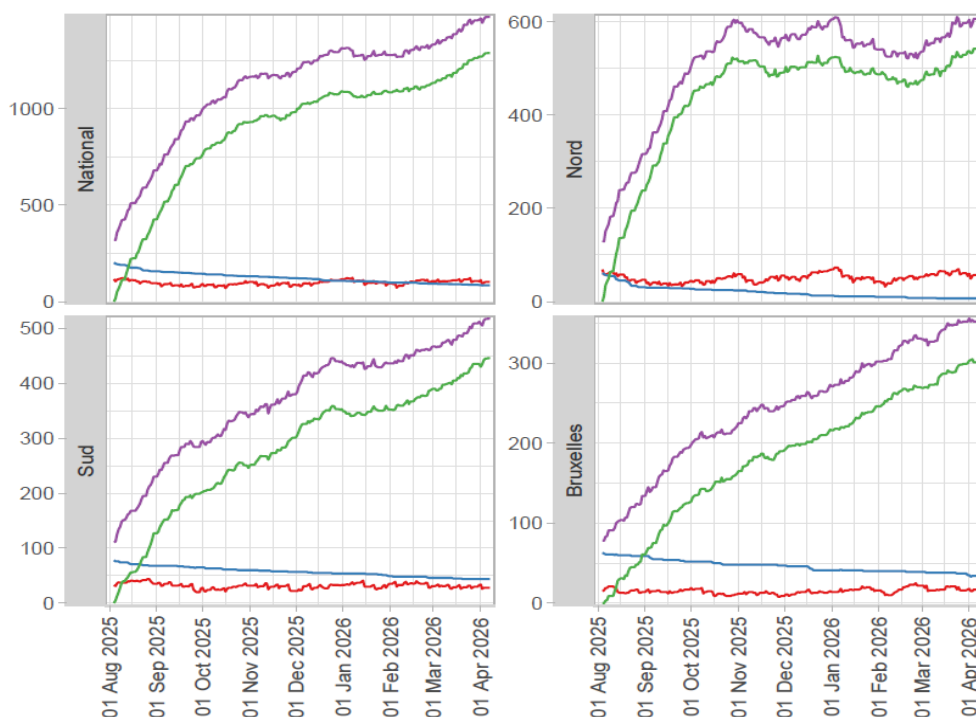
Annex 2: evolution of prison population per legal situation since the Emergency Law



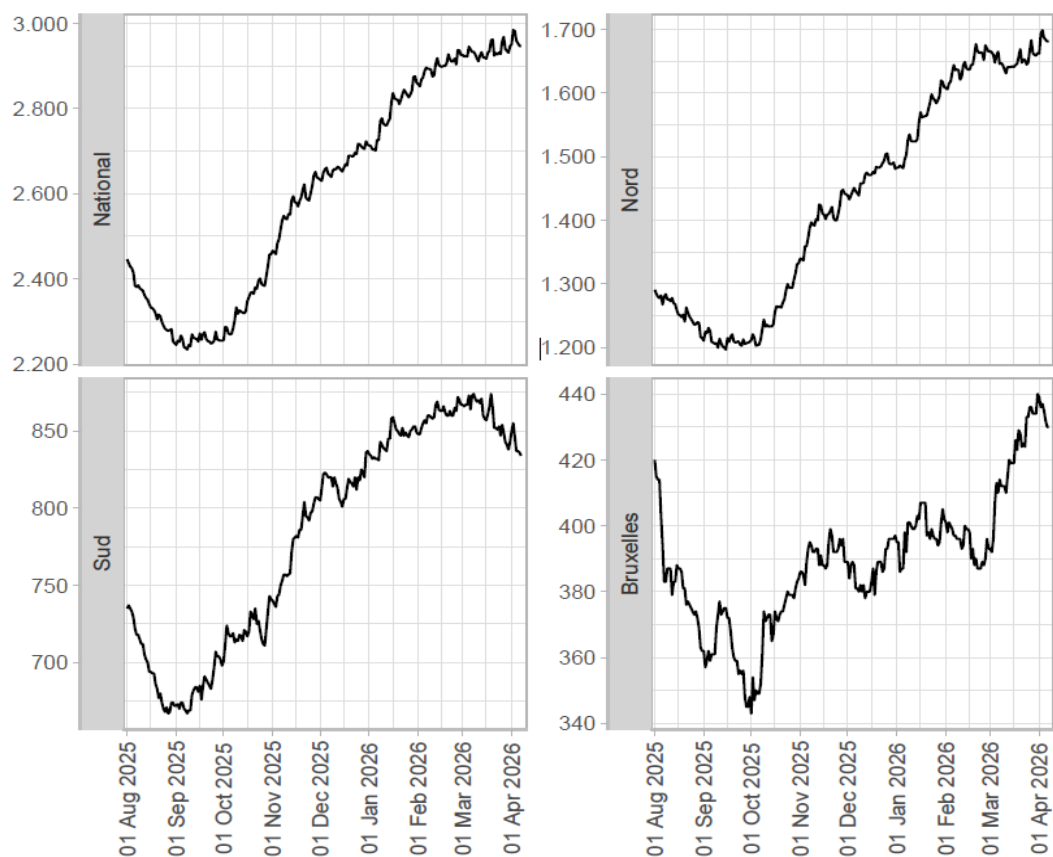
Annex 3: early release from prison since the Emergency Law: total (orange), in detention (green), under electronic surveillance (purple)



Annex 4: suspended/interrupted sentences since the Emergency Law (purple) and directly under the Emergency Law (green)



Annex 5: persons under electronic monitoring since the Emergency Law



Annex 6: monthly decisions of the *Juge d'application de peine*

