

1563rd meeting, 9-11 June 2026 (DH)

Human rights

H46-6 Vasilescu v. Belgium (Application No. 64682/12)

Supervision of the execution of the European Court's judgments

Reference documents

DH-DD(2026)421, CM/Del/Dec(2024)1514/H46-12

Application	Case	Judgment of	Final on	Indicator for the classification
64682/12	VASILESCU	25/11/2014	20/04/2015	Structural problem

Case description

This case concerns the inhuman and degrading treatment suffered by the applicant due to his conditions of detention, taken as a whole, between October 2011 and July 2012 in the prisons of *Merkspas* and *Antwerp* (insufficient living space; lack of privacy in the use of toilets and no toilets or access to running water in an individual cell; exposure to passive smoking; reduced time out of cell) (violation of Article 3). The Court noted that the problems of prison overcrowding, unhygienic and dilapidated prisons were structural in nature and had been denounced a long time ago. In addition, none of the remedies invoked by the government was an effective remedy to be exhausted (§ 127), in particular the interim remedy, in view of the Belgian overall penitentiary situation and the domestic case-law (absence of any relevant example) (§ 74).

Under Article 46, the Court recommended that general measures should be taken to guarantee conditions of detention for detainees compatible with Article 3 and that a remedy should allow them to prevent the continuation of an alleged violation or to obtain an improvement in their conditions of detention (§ 128).

Status of execution

In 2022, the Committee adopted an interim resolution concerning this case, expressing its deep concern at the worsening prison situation despite various measures announced long ago, combined with the absence of tangible progress in the establishment of an effective preventive remedy, as indicated by the Court.

During its last examination in December 2024, the Committee once again expressed its deep concern at the continuing rise in the prison population and reiterated its call for the authorities to focus their efforts on its sustainable reduction, rather than on increasing capacity. It invited them to adopt, without delay, all required measures to eliminate overcrowding and the use of mattresses on the floor and to rapidly draw up a comprehensive strategy. Despite an increase in electronic monitoring and alternatives to detention on remand, the Committee also invited them to strengthen probation services and awareness-raising of magistrates, to continue reducing the number of cases of imprisonment and the use of detention on remand and its length, to encourage adjustments of sentences and adopt binding regulation measures. Lastly, it invited them to rapidly adopt measures to improve conditions of detention and to transmit information on out-of-cell activities.

In response to the Committee, the authorities submitted a new action plan on 27 March 2026 (DH-DD(2026)421).

Individual measures: No other individual measure is required (DH meeting of September 2016).

General measures:1. *Prison overcrowding and conditions of detention*a) *Figures and statistics*

The average occupancy rate fell from 121.4% in 2011-2012 (facts of the *Vasilescu* case) to 112.7% in 2024 (the time of the Committee's last examination) before increasing again to 122.8% in March 2026 (13 567 detainees for 11 049 places; 14 prisons overcrowded by more than 30% and five by more than 50%). This increase is due to the sharp rise in the number of detainees in less than a year and a half (an additional 1 223 prisoners for 29 additional places),¹ explained by: 1) an increase in prison sentences of up to three years (following a legislative change in their execution since 2022, while electronic monitoring had previously been more systematic); 2) an increase in arrest warrants and their duration; 3) a rise in the number of interneers (1 069 in prison in March 2026: *L.B.* and *W.D.* group); and 4) the opening of the prisons of *Haren* in 2022 and *Termonde* in 2023 (high influx of new detainees), which are already overcrowded. After a decrease in 2024, the number of pre-trial detainees has increased again (accounting for 30% of the prison population).

Alternatives to detention: The figures show a rise in 2024-2025 of the use of electronic monitoring both in pre-trial detention and as a standalone sentence, but an important decrease in its use for the execution of sentences. Alternatives to pre-trial detention and probation measures have increased in the French-speaking part of the country but decreased in Flanders. Community sentences, on the other hand, have decreased across the country.

b) *Emergency measures adopted and considered in response to the rise in prison overcrowding*

Extended prison leave has no longer been granted since August 2025. An emergency law of 18 July 2025 introduced temporary measures: 1) prison sentences between six months and three years must be specifically reasoned where no other penalty is sufficient; 2) more flexible arrangements of the execution of such sentences (electronic monitoring, limited detention, conditional or provisional release for surrender or removal); 3) conditional early releases due to overcrowding,² for sentences up to ten years, six months before the end of the sentence. In January 2026, judges received training on this law. Due to the continuous deterioration of the situation (644 inmates sleeping on mattresses on the floor in March 2026), a governmental agreement on 20 March 2026 provides for further emergency measures and changes in the aforementioned law (to be submitted to Parliament shortly): 1) to strengthen the use of electronic monitoring, except for certain acts (systematic referral of all cases to the sentence enforcement judges, automatic granting for sentences up to 18 months' imprisonment and 18 months before the end of sentences between 18 months and ten years); 2) early releases, until the end of 2027, for sentences of up to three years. Faster granting of sentence enforcement arrangements is also planned, as well as increased removals, transfers of convicts, exits of interneers from prisons³ and additional capacities.

c) *Increase in prison capacity and renovations*

Temporary solutions are being considered: modular structures and the construction or leasing of prisons abroad for detainees without residence permits. Furthermore, the construction⁴ and renovation of prisons continue, with 100 places planned for serving the end of sentences in halfway houses (two planned in 2026 – already 77 places) as well as new detention centers for short sentences (720 places planned in total – already 192 places and 250 additional places from 2026 to 2028). A Masterplan IV is being prepared to consolidate ongoing and new projects, and to set capacity targets for the future.

d) *Legal reforms*

Since August 2023, a law has tightened the criteria for pre-trial detention, introducing a third monthly review, and created a new ground for release in case where a conviction is not yet final. The future Penal Code, which will enter into force in September 2026, establishes imprisonment as a last resort, with a sentencing scale that prioritises alternatives to detention. Level 1 no longer provides for imprisonment.

Level 2 provides for a minimum of six months' imprisonment, which must be specifically reasoned. A simple declaration of guilt is sufficient as a sanction at several levels, in the event of passage of time or limited seriousness of facts. A Code of Enforcement of Sentences is currently being drafted.

¹ Between 10,000 and 10,600 detainees between 2016 and 2021, 11,050 for 2022, 11,486 for 2023, 12,247 for 2024, 13,043 for 2025.

² Early release six months before the end of sentence appeared during the Covid crisis and was reactivated from August 2022 to 2023.

³ Two forensic psychiatric centers are planned (total of 500 places) but not before 2031. Three others are planned but without calendar.

⁴ See the action plan's appendix: new capacities are planned but without calendar or for the distant future (not before 2029).

e) Ongoing reflections on structural measures for the longer term in response to overcrowding

In 2022 and 2023, the authorities organised five round tables, the conclusions of which are being examined by the Prison Council (set up in April 2024). The Council has made prison overcrowding its priority and has already issued four opinions. It notably recommends the swift setting up of a legal and transparent system for regulating prison capacity (taking into account foreign models) and the postponement of any legislative initiative that could worsen the current crisis. In the absence of effects from the emergency law, it also recommends more radical measures (Opinion No. 4 of December 2025): early release 12 months before the end of sentence; collective pardons (remissions or reductions of sentences); automatic sentence reductions based on overcrowding (advanced eligibility for non-custodial enforcement measures); and restrictions on admissions to prison. The Prison Council also notes the absence of any analysis concerning sentencing determination and length, as well as the need to legislate rapidly on this issue.

An “Overcrowding” Commission, established in August 2025, is tasked with preparing a federal, evidence-based plan including proposals to address overcrowding in a sustainable manner, throughout the entire criminal justice chain, and to prevent it in the future (final report expected in 2028). Thematic working groups have also been set up to address the issue in the short-term (notably concerning detainees without residence permits, internees and cooperation).

f) Prison regulation: municipal decrees and judicial decisions

On 18 occasions, mayors have already set the maximum number of detainees in prisons on their territory. However, the limits set exceed actual capacities (“manageable” overcrowding)⁵ and are not respected.⁶ In May 2015, the French and German-speaking Bar Associations introduced several actions, following which the Belgian State was sentenced, concerning the prisons of *Saint-Gilles*, *Haren*, *Lantin* and *Mons*, to reduce or eliminate the overcrowding and cease inhumane and degrading treatment (final judgment of the tribunal of Liège in 2023; Brussels Court of Appeal’s judgment in February 2025 – appeal to the Court of cassation; Mons’ Court of Appeal’s judgment in March 2025).⁷ Appeal is pending before the judge in charge of seizures against the payment of the penalties imposed.

2. Domestic remedies

a) Compensatory remedy

The authorities provide four examples of compensation for detainees and a former detainee due to their poor conditions of detention (CM/Notes/1514/H46-12). Two new examples are given (one related to the absence of services during a strike and the other related to detention conditions in a punishment cell).

b) Preventive remedy

No decision was taken during the previous legislature regarding the establishment of a specific preventive remedy for detention conditions. The Minister of Justice has tasked the “Overcrowding” Commission in this respect. In the meantime, the authorities refer to the evolution of the case-law and the existing remedies, although none of them alone is effective for pre-trial detainees and convicts.⁸ The authorities cite five decisions from 2023 and 2025 by investigating courts and tribunals, resulting in three transfers and one release, partly linked to the conditions of detention, as well as one order for electronic monitoring on this ground (overturned on appeal). In 2023, the Court of Cassation indicated that these courts may, at first appearance, if requested, order that the detention takes place in another prison. In 2024, it quashed a decision refusing access to a prison for inspection of detention conditions and, in 2025, it quashed a dismissal decision due to lack of objective data on such conditions. The authorities also cite three interim appeals, that, in 2022, resulted, during the proceedings, in the transfer of detainees to another cell or prison. Lastly, the case-law of the Prison Supervisory Commissions diverges: 1) according to the Dutch-speaking appeal Commission complaints are admissible (cell conditions falling within the director’s authority); 2) according to the French-speaking appeal Commission they are inadmissible ((a decision finding a strong presumption of an Article 3 violation in cases of less than 3 square meters was overturned).

⁵ For example, 660 detainees in *Antwerp* (for 439 places), 427 in *Ghent* (for 299 places) and 929 detainees in *Lantin* (for 744 places).

⁶ Thus, for example, on 12 March 2026, there were 677 detainees in *Antwerp*, 485 detainees in *Ghent* and 1 110 detainees in *Lantin*.

⁷ Overcrowding on 12 March 2026: 49.2 % (*Lantin*), 1.6 % (*Saint-Gilles* which should have already been closed), 21.4 % (*Haren*) and 53.4 % (*Mons*).

⁸ Pending applications before the Court (No. 4438/24 and No. 28310/25 and 28399/25) raise the question of the existence of such an effective remedy in Belgium.

3. *New Rule 9.2 communications* (DH-DD(2026)573 and DH-DD(2026)613)

According to the Central Prison Supervisory Council (CPSC) and the Federal Institute for the Promotion and Protection of Human Rights (FIHR), the number of detainees has continued to rise and the number of inmates sleeping on mattresses on the floor has almost tripled in one year. More than half of this rise is due to the increase in prison sentences of up to three years, against a backdrop of overcrowding with very limited places in detention facilities. Two other increases are observed (concerning interneers and prison sentences exceeding three years). However, capacity has increased only slightly since 2024 (although there has been a rise in capacity over seven years, proportional to the increase in the number of detainees) and overcrowding figures would be even higher, without emergency measures (3 200 convicts waiting to serve their prison sentence, in mid-January 2026).

The governmental agreement of March 2026 raises several questions, particularly regarding the adequacy of resources allocated to the federated entities (responsible for electronic monitoring) and the appropriateness of excluding certain offenses from this system. The CPSC and Penitentiary Council's opinions would be ignored, a situation that could last until September 2028, pending the report expected from the new Commission. Notably, the authorities have never expressed their intention to create a prison regulation system, nor followed the suggestions of extended early releases, pardons and sentence reductions for overcrowding. Concerning infrastructure, it has been decided to continue using the old prisons of *Saint-Gilles*, *Antwerp* and *Hoogstraten*. The idea of building or renting prisons abroad has, however, raised a number of questions. No budget has been allocated at this stage for this option or the proposed modular structures. The prison conditions remain unchanged and out-of-cell activities could not be increased, due to overcrowding and insufficient staff.

Given the limited number of compensation decisions for poor conditions of detention, the importance of a compensatory remedies is underlined, notably through sentence reductions for overcrowding. A ruling of the Court of Cassation in October 2025 recognises the possibility for investigating judges to assess situations in the light of Article 3 and to draw the consequences for detention arrangements. The right to lodge a complaint may be effective if complaints are deemed admissible (contested by the authorities) and the decisions are enforced (unlikely given the structural overcrowding). In the absence of concrete measures, the authorities should quickly establish a preventive remedy.

According to the Flemish Bars' Association, the situation has worsened further (784 inmates sleeping on mattresses on the floor at the end of April 2026) and no improvement in detention conditions is noted (unpartitioned sanitary facilities, a glaring lack of out-of-cell activities and reopening of dilapidated prisons without renovation). The lack of ambition to reduce prison population and of a comprehensive strategy against overcrowding is regrettable. Emergency measures have not had an impact (alternatives adding to detentions, instead of replacing it) and the measures envisaged could worsen the situation, given the strict conditions of electronic monitoring. There are no measures aimed at reducing pre-trial detentions, nor their length and the absence of a preventive remedy and a binding prison regulation mechanism is underlined.

Analysis of the Secretariat

General measures: It is recalled that according to the CPT, building new prisons or increasing capacity are not sustainable solutions to overcrowding.⁹ In its latest report,¹⁰ the CPT reiterated its call on the Belgian authorities to reduce the prison population and to combat overcrowding, in accordance with the Council of Europe's recommendations. With the majority of detainees spending up to 23 hours a day in their cell, the CPT also called on them to strongly intensify their efforts to offer activities for all detainees.

1. *Prison overcrowding and conditions of detention*

The authorities acknowledge a worsening of the prison situation since the last examination of the case, which the Committee might wish to note with deep concern: a 10% increase in the average occupancy rate (122.8% in March 2026); a growing number of prisons exceeding 130% occupancy; and a significant rise in the number of inmates using mattresses on the floor. Thus, the measures adopted by the authorities, in particular the emergency law of July 2025, have not produced the expected results, while many convicts are still awaiting the execution of their prison sentence.

⁹ General report on CPT's activities (2021), including a chapter on the fight against prison overcrowding, CPT/Inf(2021)5, § 104.

¹⁰ Report of 29 November 2022 on the CPT's visit to Belgium from 2 to 9 November 2021, CPT/Inf(2022)22. In May 2025, the CPT returned to Belgium (visit notably of five prisons and the forensic psychiatric centres) but its report is not yet public.

The Committee could therefore urge the authorities to adopt additional measures to rapidly and significantly reduce overcrowding, to eliminate once and for all the use of mattresses on the floor,¹¹ and to improve conditions of detention, drawing inspiration where appropriate from proposals made at national level (collective pardons,¹² automatic sentence reductions in case of overcrowding and early releases 12 months before the end of the sentence).

The Committee might also wish to express regret that the occupancy rates set per prison by mayoral decrees (often tolerating a certain level of overcrowding) and judicial decisions are not respected in practice. Like other institutions (Prison Council, CPSC,¹³ the administration,¹⁴ prison directors,¹⁵ and CPT recommendations¹⁶), it might wish to strongly encourage the authorities to rapidly establish a binding national regulation mechanism to reduce occupancy rates per prison and subsequently stabilise them below 100%,¹⁷ keeping in mind that according to the new Penal Code, imprisonment is intended to be a measure of last resort.

Furthermore, the growth of the prison population since 2016, and even more since the last Committee's examination (13 567 inmates in March 2026), is cause for concern, especially as the authorities had indicated their intention, up until March 2022 (in earlier action plans), to reduce the prison population to under 10 000. According to the authorities this increase is due to: their decision to enforce all short prison sentences in an context of overcrowding ; the "pull" effect resulting from the creation of new prisons; a continuous increase in internees in prison, despite the Committee's calls to the contrary (interim resolution in December 2024 and its decision in March 2026 : group *L.B.* and pilot judgment *W.D.*)¹⁸; as well as an increase in detentions on remand and their length. The CPSC and the FIHR also note a rise in the number of sentences exceeding three years. Accordingly, the authorities should be invited once again to prioritise a sustainable policy of reducing prison population rather than increasing capacity, the projections and effects of which remain uncertain and potentially counterproductive.

In this regard, it is regrettable that the authorities have still not adopted a comprehensive, ambitious, and long-term strategy to combat overcrowding that addresses its root causes (the measures adopted being mostly urgent and temporary). Although the Prison Council was announced as early as 2019, set up in 2024, and has already issued several opinions, a new Commission has now been assigned to draw up a federal plan including proposals to address overcrowding in a sustainable manner. However, its final report is only expected in September 2028 and such a timeline is likely to prevent the adoption of structural measures before 2030 (the next legislative term). The Committee could, thus, urge the authorities to intensify their efforts to develop a comprehensive strategy for the sustainable elimination of overcrowding, with a clear timeline, and to once again invite them to make use of all possibilities for technical assistance and cooperation within the Council of Europe. It may, in particular, encourage them to make full use of the *Innovapris* project (funded by the European Commission which has started in April 2026), which aims to support them, along with France, Portugal and Romania, in the execution of Court judgments concerning overcrowding.

In response to the concerns expressed, the Committee could invite the authorities to take into account, in their strategy, the following objectives: 1) sufficiently strengthen the resources of probation services and awareness-raising measures for magistrates, so that alternatives to detention replace prison sentences, rather than adding to them (thereby avoiding net-widening effects); 2) analyse sentencing practices and the length of sentences and reduce the legal scope for imprisonment and its duration (notably in case of recidivism or for first-time offenders for certain offences); 3) reduce the use of detention on remand and its length (including consideration of statutory caps and stricter legal criteria, as in certain countries); 4) continue to facilitate sentence adjustments within the reform of sentence execution (notably by making conditional release more systematic); 5) ensure a better distribution of detainees, notably by maximising the occupancy of open facilities. Finally, in the absence of any concrete information indicating a mitigation of the adverse effects of overcrowding, the authorities should be invited once again to improve detention conditions and to provide more activities and out-of-cell time for all prisoners.

¹¹ End of their use announced for the Spring 2023: Government's response to the CPT's latest report, CPT/Inf(2022)23, p.7.

¹² See intervention by the President of the College of Attorneys General at the Justice Committee of Parliament on 18 December 2024.

¹³ CPSC's opinion on prison regulation, 10 February 2025: a legal mechanism, in the context of a judicial control, is recommended.

¹⁴ 2 July 2024's Memorandum (legal quotas, to be respected by entries and exists of detainees and the prohibition of floor mattresses).

¹⁵ See the press release of 1 October 2025: the CPSC supports the call of prison directors in the face of the prison emergency.

¹⁶ The CPT invites States to set a ceiling for the number of prisoners per prison and to develop alternatives, CPT/Inf(2021)5, § 102.

¹⁷ Already recommended in a bill in 2005, but the minister had judged the planned measures to combat overcrowding sufficient.

¹⁸ See CM/Notes/1553/H46-8 and CM/Del/Dec(2026)1553/H46-8.

2. *The absence of an effective preventive remedy*

The authorities have communicated two new decisions awarding compensation, which are not related to grievances similar to those in the *Vasilescu* case. However, the Committee could recall that it has already considered that a compensatory remedy seems to exist in Belgium.¹⁹ Given its limited use, the authorities may consider sentence reductions for overcrowding (serving as a compensatory remedy and as a response to the structural problem), as is the case in Italy²⁰ and as suggested by the Prison Council as well as in one of the Rule 9.2 communications. This remedy could also be envisaged in cases where prisoners are required to sleep on mattresses on the floor, as recommended by the CPSC (cf. opinion on prison regulation).

As regards preventive remedy, domestic case-law seems to be evolving slightly concerning conditions of detention (decisions favourable to pre-trial detainees regarding the burden of proof, some resulting in transfers, although this remains difficult in cases of generalised overcrowding; jurisdiction accepted by the Dutch-speaking Prison Supervision Appeal Commission but contested by its French-speaking counterpart and by the authorities). Thus, in the absence of established case-law covering all detainees, which is acknowledged by the authorities, the Committee could note with concern the lack of progress in establishing an effective preventive remedy (the mandate of which has been entrusted to a new body) and once again urge the authorities to set up, without delay, a remedy available to all detainees, capable of rapidly putting an end to violations of Article 3 through transfers or, if need be, releases, drawing inspiration from other States,²¹ and recall the Secretariat's availability in this regard.

3. *Conclusion*

The Committee may wish to resume examination of this case at its meeting (DH) in September 2027 and to invite the authorities, to that end, to submit a concrete and measurable action plan, accompanied by a relevant timetable for the structural measures envisaged to sustainably address overcrowding, while recalling the Secretariat's availability to provide any useful support in this regard. In the absence of tangible progress by then in reducing overcrowding, eliminating mattresses on the floor, and establishing an effective preventive remedy, the Committee may wish to consider taking new action.

Financing assured: YES

¹⁹ The Court has ruled in this respect in its inadmissibility decision *Laurent v. Belgium* of 30 March 2021, No. 38732/18.

²⁰ See notably, the measures taken in this regard in implementing the pilot-judgment *Torreggiani v. Italy* (CM/ResDH(2016)28).

²¹ Several States have such remedy for conditions of detention, considered to be effective, such as Poland, Italy, Croatia, Bulgaria and Albania. Other States have recently introduced one, such as France and Greece, or are in the process of doing so, such as Portugal.