

Foreign national prisoners in Belgium: context, developments and projects

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Introduction

The number of foreign national prisoners in Belgium has increased sharply in the last 35 years. In 1980, 25% of the total prison population had a foreign nationality, while this number has increased to 40.1% in 2015 (Aebi, Tiago, & Burkhardt, 2016; Snacken, 2007). Besides, it is worth to mention that the representation of foreign nationals in Belgian prisons is well above the European average of 22.6% (according to the SPACE I study - Aebi et al., 2016).

The population of foreign national prisoners deserves special attention. International research demonstrates that foreign national prisoners are more vulnerable than national prisoners. Alongside the so-called “Pains of Imprisonment” (Sykes, 1958), deprivations all prisoners face during detention, foreign national prisoners in particular experience a number of additional problems such as language problems, difficulties in maintaining family contact and uncertainties about their immigration status (Barnoux & Wood, 2013; Bhui, 2009; Ugelvik, 2014). Notwithstanding their significant presence in prison (Aebi et al., 2016), foreign national prisoners are often excluded from participation in research (Yildiz & Bartlett, 2011). Consequently, *“the question of foreign national has in many ways been decidedly under-researched; a knowledge ‘blind spot’”* (Ugelvik, 2014, p. 4).

In Belgium, the topic ‘foreign national prisoners’ gained specific attention in 2004 following the study ‘[foreign nationals in Belgian prisons](#)’ (Snacken, Keulen & Winkelmans, 2004) funded by the King Baudouin Foundation. This study revealed the particular issues that foreign national prisoners face in Belgian prisons relating to language and cultural problems, leisure and other activities, work in prison, social isolation and contact with the outside world and specific legal issues regarding release from prison and removal to the country of origin.

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In this joint contribution, we present some particular developments and projects that relate to the living conditions of foreign nationals in Belgian prisons today. Four main research projects will be highlighted:

1. The cultural-sensitive initiatives for foreign national prisoners, in particular regarding food
2. The Belgian deradicalisation policy for foreign national prisoners
3. Involvement and participation of foreign nationals in prison (FIP²-project)
4. Developments regarding (early) release from prison and expulsion proceedings

Co-author Dorien Brosens is also involved in writing a specific section of the EUROPRIS newsletter about the European FORINER project. This project aims to investigate how education for foreign national prisoners can be organized given that this is provided by their home country, but received in the country in which they are imprisoned.

Research project 1: Cultural-sensitive Initiatives for foreign national prisoners: Prison meals and foreign nationals longings for home-made meals

(By An-Sofie Vanhouche)

Prisoners often complain about prison meals. Regularly, officials react by stating nutritious meals are served and therefore perceive prisoners' complaints as unjustified. However, recent studies highlight food related grievances are not necessarily related to the meals' nutritional value (see for example Vanhouche et al., forthcoming). In light of a growing multiculturalism in European prisons, prisoners' experiences and complaints rather stress the longing for cultural specific meals. These longings do not only concern prisoners without a legal residence permit but studies show this particular group can encounter difficulties to adapt to another nations food habits (Vanhouche, 2017). Clearly, multicultural prison populations bring with it new challenges for prison authorities (Philips, 2012).

Self-catering systems can provide meaningful solutions in order to respond adequately to the needs of the multicultural prison population and in particular their cultural food habits. This part of the article focuses on a self-catering project in the prison of Tilburg. This prison is situated on Dutch territory but was rented by Belgium between 2010 and 2016. In seeking to address chronic overcrowding within its penal system, Belgium took the radical step of renting a prison from the Netherlands in Tilburg. Mostly irregular migrants, or people with an unknown legal status, ended up in Tilburg prison. Based on information retrieved from the penitentiary in August 2015, 32 percent of the prisoners had the right to stay in Belgium, 52 percent had no

right to stay in Belgium, and 16 percent had an unknown status. In addition, only 20 percent of the prisoners in Tilburg had a Belgian nationality, and 52 other nationalities were represented among the prisoners. This led to an extraordinarily diverse and multicultural prison population.

When the prison opened for the prisoners convicted in Belgium, the food service was one of the biggest complaints of prisoners. Many prisoners in Tilburg were unfamiliar with ready-made meals and they expressed their dissatisfaction. Particular criticism was raised about processed foods that made it impossible to discern the ingredients in the meals. Moreover, prisoners craved for home-made food prepared according to their own customs. Therefore the kitchens on the units where prisoners could cook at their own expenses became a popular place. Consequently, servery food was thrown away untouched and the prices of foods in the canteen shop became a prominent point of discussion. To resolve this problem of food waste, officers creatively searched for a solution. Instead of purchasing ready-made meals, prisoners received 12.50 euro a week per person to cook one hot meal a day. The project started at one of the units and soon became a great success. It was introduced on two other units and half of the prison population joined the project. Consequently, Tilburg prison changed one of its biggest weaknesses, into one of its strengths: A self-catering system that enabled prisoners to cook according to their own customs.

The initial name of the project was 'multicultural cooking in Tilburg prison' indicating that the officers' aim was to respect their multicultural prison population. While some officers were somewhat sceptical and insecure when the new system began, they quickly experienced the benefits. Not only thanks to prisoners' appreciation, but also because it gave them insight into the so called 'group processes' on the group wings. The food groups, which were often formed according to cultural or religious lines, appeared to be a good indication of how relationships between prisoners were evolving in these cells. When a food group suddenly split, or if one prisoner suddenly dropped out of a group, this was an indication to staff that they ought to monitor that particular room. Moreover, officers noted how rival groups, often consisting of prisoners from countries or regions in conflict, managed to share the kitchen together. Officers also framed self-catering within the prisoner's re-integration trajectory. Self-catering helped to diminish prisoners' dependence on the institution and increased their responsibility, skills, and sense of self-reliance. Moreover, when officers noticed that prisoners cooked unhealthy foods, they would intervene and encourage them to make changes to their meals or ingredients. This gave officers the feeling that they were helping with the rehabilitation of prisoners, even those prisoners who would not return to the Belgian society. Self-catering thus introduced a form of normalisation and consequently showed that also for foreign nationals, measures can be taken to work on their re-integration. Finally, the fact that the presence and use of cooking materials

such as knives were part of daily prison life did not scare officers off since the (cooking) activities introduced opportunities to create dynamic relationships between staff and prisoners. In short, self-catering introduced a form of normalisation and consequently showed that also for foreign nationals, measures can be taken to work on their re-integration.

Prisoners were overwhelmingly positive about the system. First, the fact that staff decided to introduce a change was perceived by prisoners as recognition that their complaints with the existing food system was a legitimate discontent. The prisoners felt that the staff had listened to, and supported, them by respecting their cultural and religious needs. Secondly, since every prisoner received money for cooking (and the money could not be used for anything else), more equality was created. Several prisoners discussed how a lack of financial means was especially a problem for foreign nationals who appeared to receive little to no money from outside. A prisoner who provided financial support for other prisoners, explained that it was no longer necessary in the new self-catering system. This did not mean that there were no financial differences or exploitation, but based on the stories that were told during the study, it appeared that these negative aspects were less present (Vanhouche et al., forthcoming).

In conclusion, from an organisational point of view it is impossible that a central prison kitchen takes into account the variety of different preferences of the multicultural prison population. Consequently a good alternative can be found in self-catering projects. The self-catering project in Tilburg shows the strengths and added values of self-catering projects to facilitate the recognition of prisoners' cultural identities (Vanhouche, 2017). More information about the practical implementation of self-catering projects in prison can be found in [the study of ICF consultancy](#) made on the request of the European Commission. The self-catering system in Danish prisons is used as an example of good practices. Moreover, the [World Health Organization](#) published a literature overview and practical tips on how to improve correctional food services (Smoyer & Minke, 2015).

Research project 2: The Belgian deradicalisation policy for foreign national prisoners

(By Lana De Pelecijn)

The recent terrorist attacks in Europe not only led to a stricter policy for (illegal) migration in Belgium, but also to an increased fear and attention for radicalization and extremism. This caused the introduction of various anti-terrorist measures and initiatives by the Belgian government (see RAN, 2014). One of the priorities on the political agenda is the approach of radicalization in prison. The prison is regarded as a 'breeding ground' for radicalization and

recruitment as potential recruits would be more receptive for radical thinking through feelings of frustration towards society, their search for religious or ideologically inspired sense of expression, group pressure and their exclusion from society (Action Plan, 2015). According to the Belgian state security, there are approximately 450 detainees with a diverse risk profile on Islam radicalization in the Belgian prisons.

By implementing specific prison policy including disengagement and deradicalization programmes during detention, the government tries to prevent detainees from radicalizing during detention (*preventive policy*) and provides a specialized framework for radicalized detainees (*reactive policy*). The question is, however, what strategy is best to counter these radicalization processes within prison? Should governments opt for isolation by concentrating radicalized detainees in specific wings or prisons, or choose for isolation by spreading these detainees among others in order to prevent an intensification of their moral beliefs (ICSR, 2010; Jones, 2014)? The Belgian government opts for a two-track policy. This means that detainees are initially integrated into the ordinary sections as long as they do not pose a serious risk of radicalization, do not engage in an armed struggle from ideological motives and their radicalization process is controlled. However, if there is a risk of radicalization, the detainee can be transferred to a satellite prison (i.e., Andenne, Bruges, Ghent, Lantin or Sint-Gillis). Here, the radicalized prisoner will be followed up more intensively with a maximum integration within the ordinary prison life. If the threat is too real or if there are signs that a terrorist network is recruiting other prisoners, the detainee will be isolated and referred to a specialized department where deradicalization programmes are set up (i.e., Hasselt or Ittre). This guidance (normally) continues after detention. When radicalized prisoners are released under conditions, a justice assistant will be appointed to verify compliance with the imposed conditions and to provide support to comply with the terms. For radicalized prisoners who are released without conditions, only a voluntary offer can be formulated.

What the specific content is and/or should be of such deradicalization programmes in prison and to what extent they are effective for deradicalizing prisoners, is currently unclear. However, it is the subject of an on-going research project.⁶ However, according to the Secretary of State for Asylum and Migration, most of the Islamist inmates in Belgium are foreign nationals. This could hamper the detainee's deradicalization process in two different ways.

The first obstacle is communication. Next to the information- and security services, the staff of the penitentiary institution also plays an important role, as they must identify signals of radicalization during their daily contact with the prisoners. In order to do so, the staff gets the

⁶ Research project funded by the Department of Welfare, Public Health and Family (EF15). *Disengagement radicalized detainees: description and evaluation practice*.

necessary training (see [Schwarzl, 2017](#)). However, most of the prison guards have difficulty to distinguish 'legitimate' religious and political information from extremist materials (ICSR, 2010). Moreover, in prisons were the majority of the population consists of foreign nationals, communication often takes place in foreign languages. This complicates both the gathering of information by the prison staff and the guidance in the context of deradicalization.

The second and probably most important obstacle is the fact that foreign national prisoners without residence rights will be deported after imprisonment (ICSR, 2010). As a consequence, the deradicalization programmes during detention can be interrupted if there is a possibility for removal. This also reduces the possibility for aftercare and follow-up, as there is no guarantee that radicalized prisoners or prisoners who pose a risk of radicalization will be followed up in the country to which they are being returned. Additionally, the current legislation stipulates that a judge – at the request of the Public Prosecutor – can take the Belgian nationality from someone convicted of terrorism. This only applies to convicted persons who did not receive their nationality from their parents by birth right and in case they serve a prison sentence of at least five years without delay (Art. 7 Wet van 20 Juli 2015 tot versterking van de strijd tegen het terrorisme). As a result, prisoners that would normally be followed up after imprisonment in the context of deradicalization (because they have the Belgian nationality and thus a legal residence permit) can thus also be removed from the territory. This can be considered as a serious threat to realizing an effective deradicalisation policy.

Research project 3: Foreigners' Involvement and Participation in Prison (FIP2-project) - Foreign nationals' participation in prison programmes⁷

(By Flore Croux & Dorien Brosens)

All prisoners, which include also foreign national prisoners, are entitled to activity participation during imprisonment (e.g., cultural activities, democratic participation, education, vocational training, sport activities). The right on activity participation is regulated by different international legislations and recommendations such as the Standard Minimum Rules for the Treatment of Prisoners (United Nations, 1955) and the European Prison Rules (Council of Europe, 2006). In addition, the European Committee of Ministers has a special recommendation concerning foreign national prisoners (Council of Europe, 2012). However, research has indicated that foreign national prisoners have less opportunities to participate in prison activities than national prisoners (Atabay, 2009; Brosens & De Donder, 2016). After all, research has demonstrated that taking part in prison activities results in behavior favorable for both the prisoner (e.g., better

⁷ The project started at the 1st of February 2017 and is funded by the Research Foundation Flanders (FWO). This research project is a collaboration between researchers of the Vrije Universiteit Brussel (VUB) and the Ghent University (UGent), and is supported by the Erasmushogeschool Brussel (EhB).

mental and physical health - Nelson, Specian, Tracy, & Demello, 2006), the prison (e.g., improved functioning of the institution - Meek & Lewis, 2014) and society (e.g., less recidivism - Kim & Clark, 2013).

This overall context constituted the background of a four-year research project called FIP² which examines “Foreigners’ Involvement and Participation in Prison”. The FIP²-project aims to develop **a culturally sensitive prison participation and involvement model** and focuses on the following research objectives:

- 1) What projects are developed and implemented to reach the foreign national prison population?
- 2) To what extent do foreign national prisoners participate in prison activities?
- 3) What motivates foreign national prisoners to participate in prison activities, or which barriers hinder their participation?
- 4) What needs concerning participation and involvement in prison do foreign national prisoners experience?
- 5) Which factors have an effect on the participation of foreign national prisoners in prison activities?

The term ‘activities’ is interpreted broadly in this study, and includes for instance educational courses, vocational training, library, sports, peer support, prisoner council, prison visit, religious programmes, etc.

To formulate an answer to the research questions, a mixed-method research consisting out of 3 parts with 6 work packages is in full development. **Part 1** aims to acquire a **helicopter overview** and consists of 3 work packages. At this moment, the research team is working on the first two work packages of the research project.

- WP1 concerns an overview of existing national projects or practices that focus on foreign national prisoners: What projects are undertaken today in the Flemish and Brussels prisons to reach foreign national prisoners? Why are these projects (not) created? What future plans are there? To achieve this, telephone interviews are conducted with the coordinators of the activities in all Flemish and Brussels prisons, and with the radicalization officials. Besides, some employees of FOD Justice will be interviewed to gain insight into the initiatives undertaken in prisons within the Walloon region.
- WP2 consists of consulting the SIDIS Suite database to map the characteristics of the target group (e.g., nationality, spoken languages, immigration status, place of birth, etc.).

- The last work package of part 1 (WP3) consists of an analysis of relevant policy documents concerning the involvement and participation of foreign national prisoners in prison activities. Diverse policy documents will be analysed (European legislation, Federal legislation, Flemish legislation, local action plans...). We would like to investigate to which extent these policy documents consider (the specific needs of) foreign national prisoners.

Part 2 of the project consists of a *qualitative research* with 2 work packages.

- WP4 concerns conducting in-depth interviews and/or focus groups with foreign national prisoners. Through these interviews, we want to understand their experiences and needs regarding participation and involvement in prison activities. This gives us the opportunity to use the methodology of 'Appreciative Inquiry'. Interview questions based on this methodology are for instance: 'If you had one wish concerning prison participation, what would it be?', 'What are your ideals concerning prison participation?' (Liebling, Price, & Elliott, 1999). This research methodology has already successfully been applied in studies in correctional settings (e.g., Fischer, Geiger, & Hughes, 2007; Liebling et al., 1999). The initial goal is to conduct 60 interviews, depending on the saturation point of information. The participants will be interviewed in their native language by the researchers (if they speak the language) or via an interpreter.
- WP5 aims to conduct in-depth interviews with activity providers and prison guards about culturally sensitive work practices in prison: To what extent do they work culturally sensitive? What are their perceptions and experiences about dealing with foreign national prisoners? What needs do they have to work culturally sensitive? The aim is to conduct 50 interviews, depending on the saturation point of information.

The **last part** of the research, the *quantitative part* concerns 1 work package.

- WP6 consists of conducting a survey among prisoners. This standardized questionnaire will be used to study the motives and barriers of prisoners to participate in prison activities. Besides, some themes that emerged from the qualitative interviews from WP4 will be further explored. In order to make a comparison between prisoners, not only foreign national prisoners, but also national prisoners will be invited to fill in the survey. To tackle language problems, the questionnaire will be translated in various languages: e.g., Arabic, English, Italian, French, Romanian, Spanish...

Research project 4: Developments regarding (early) release from prison and migration law enforcement

(By Steven De Ridder)

Several foreign national prisoners in Belgium do not have residence rights in Belgium or will have their residence rights revoked pending imprisonment. The Belgian Immigration Service aims for their expulsion after they have served their sentence. If necessary to realize an expulsion, the Belgian Immigration Service will launch an identification procedure during imprisonment. We will refer to this specific category of foreign national prisoners as 'deportable foreign national prisoners' during this section of the newsletter.

The proportion of deportable foreign national prisoners in the Belgian prison population is substantial. Between 2003 and 2013, the number of deportable foreign national prisoners has increased from 1.657 to 3.174 (+92%) (De Ridder & Beyens, 2014). On 2 September 2015, 3.118 persons (59.6%) on a total number of 5.228 foreign national prisoners were without residence rights.⁸

Over the last years, deportable foreign national prisoners have become a top priority under Belgian migration policy. In the beginning of the millennium, the Belgian Immigration Service was forced to increase their efforts in realizing expulsion straight out of prison due to the limitation of the period that foreign national prisoners could be held in prison under administrative detention (after having served their sentence or being early released) as well as the limited capacity in closed administrative detention centres (Bergans *et al.*, 2010).

In 2005, immigration officers were allowed to enter Belgian prisons and to visit foreign national prisoners in view of identification following the Agreement of 28 October 2005 between the Belgian Prison Service and the Belgian Immigration Service (De Ridder & Vanquekelberghe, 2012). On 19 January 2012, the work of the immigration officers became enacted in Belgian immigration law. Whereas eventually immigration officers almost only visited deportable foreign national prisoners from outside the European Union (third country nationals), today, they are also responsible for the identification of European citizens. This is the result of the fact that over the last years also European citizens were sent to their home country by plane.

Over the last years, the early release procedures for foreign national prisoners have been modified. At present, foreign national prisoners serving a sentence of up to three years are eligible for early release 4 months before having served one third of their sentence and when

⁸ Information received by the Belgian Immigration Service.

an expulsion can be brought in effect. This decision is the competence of the Minister of Justice and in practice taken by the Prison Governor. What is changed is the fact that the date an early release can be granted is linked to a pillar of migration law: the expulsion to the country of origin. A similar arrangement has been enacted for foreign national prisoners who serve their full sentence and 'max out' of prison: they can be send back to their home country 6 months before the date they have finished their sentence in case an expulsion is feasible. In his PhD research, De Ridder (2016) has shown that the increasing link between migration control and early release in Belgium is not in accordance with the idea of the legislator when he enacted the early release procedures in 2006.

Foreign national prisoners serving a sentence of more than three years are eligible for early release after having served at least one third of their sentence and meeting three contraindications: (1) the risk of recidivism, (2) the attitude towards the victims, and (3) the efforts to pay the civil parties. The decision is taken by sentence implementation courts according to the 2006 Sentence Implementation Act.

More recently, foreign national prisoners were targeted by some significant modifications of Belgian immigration law.⁹ On 24 February 2017, new legal provisions were implemented in the 'political aftermath' of the terrorist attacks in Brussels of 22 March 2016. Although these modifications do not apply solely to foreign national prisoners, they certainly fall within the scope. As a result, it has become less difficult under Belgian immigration law to revoke residence rights of foreign nationals as procedural safeguards in this regard were significantly minimized. Additionally, the Belgian Immigration Office can now prohibit the entry to the entire Schengen zone more easily. In the past, a Royal Decree or Ministerial Decree was required to implement a return ban for 10 years (De Ridder & van der Woude, 2016). As both Decrees were deleted from Belgian immigration law, the Belgian Immigration Service now implements entry bans that even can exceed 10 year. Less procedural safeguards compared to decision-making on Royal Decrees or Ministerial Decrees characterize these decision-making process regarding entry bans. Today, even European citizens can receive an entry ban for the Belgian territory.

⁹ For a discussion in Dutch, see <http://belconlawblog.com/2017/06/30/wijziging-vreemdelingenwet/> ; Breuls (2017).

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