

**Question for written answer E-003786/2022/rev.1  
to the Commission**

Rule 138

**Saskia Bricmont** (Verts/ALE), **Patrick Breyer** (Verts/ALE), **Philippe Lamberts** (Verts/ALE)

Subject: Extradition and observance of the non bis in idem principle in Belgium

Nizar Trabelsi was convicted in Belgium in 2004 and served his prison sentence<sup>1</sup>. In 2013, he was extradited to the United States in contravention of an interim measure of the ECtHR and of the prohibition of torture<sup>2</sup>. He is now facing charges for actions carried out in Belgium, in violation of the principle of speciality in extradition matters. He potentially faces a life sentence for these actions, without the possibility of release or parole. The United States and Belgium have been criticised by multiple United Nations experts for the inhumane prison conditions in the United States and for infringement of the non bis in idem principle<sup>3</sup>.

Belgian courts<sup>4</sup> have ordered the Belgian Government to bring the non bis in idem principle to the attention of the American authorities and remind them that they are continuing to act without any 'reasonable and lawful justification' of the 'exceptional situation' in which they have put Mr Trabelsi. The Belgian Government is refusing to act in response to this.

1. What is the Commission's position on the aforementioned infringements of fundamental rights?
2. Does the Commission intend to hold Belgium to account for its failure to observe the rule of law?
3. What measures will be taken to resolve this specific case?

Submitted: 22.11.2022

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<sup>1</sup> RTBF, 'Le procès de Nizar Trabelsi aux États-Unis suspendu', 17 August 2019, <https://www.rtb.be/article/le-proces-de-nizar-trabelsi-aux-etats-unis-suspendu-10293659>; RTBF, 'Nizar Trabelsi: la justice belge désavoue le ministre', 5 March 2021, <https://www.rtb.be/article/nizar-trabelsi-la-justice-belge-desavoue-le-ministre-10712561>; Le Vif, 'L'État belge à nouveau condamné dans l'affaire Nizar Trabelsi', 27 September 2022, <https://www.levif.be/belgique/letat-belge-a-nouveau-condamne-dans-laffaire-nizar-trabelsi/>; Politico, 'Belgium told to pay EUR 100K in damages for extraditing terrorist to US', 27 September 2022, <https://www.politico.eu/article/belgium-must-pay-100k-euros-in-damages-for-extraditing-terrorist-nizar-trabelsi-to-the-us/>

<sup>2</sup> Nizar Trabelsi is potentially facing a life sentence, without the possibility of release or parole, which has been found to be contrary to Article 3 of the European Convention on Human Rights: ECtHR, *Trabelsi v État belge*, 4 September 2014, n° 140/10, <https://hudoc.echr.coe.int/eng#%7B%22appno%22%3A%5B%22140%2F10%22%5D%2C%22itemid%22%3A%5B%22001-146354%22%5D%7D>

<sup>3</sup> UN, Mandates of the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment, and of the Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism, 16 December 2020: Belgium (AL BEL 2/2020) - <https://spcommreports.ohchr.org/TMResultsBase/DownloadPublicCommunicationFile?gld=25770>; UN, Mandates of the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment; the Working group on Arbitrary Detention; the Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health and the Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism, 25 February 2022: United States of America (AL USA 1/2022) – <https://spcommreports.ohchr.org/TMResultsBase/DownloadPublicCommunicationFile?gld=27006>.

<sup>4</sup> (1) Brussels (interim measure), *Trabelsi v État belge*, 8 August 2019: order to bring the non bis in idem principle to the attention of the American authorities, (2) Appeal on a point of law (interim measure), *État belge v Trabelsi*, 4 March 2021: dismissal of appeal lodged by the Belgian State, (3) Court of First Instance (liability), *Trabelsi v État belge*, 26 February 2020: order to bring the non bis in idem principle to the attention of the American authorities, (4) Brussels (interim measure), *Trabelsi v État belge*, 23 May 2022: order to bring the non bis in idem principle to the attention of the American authorities, (5) Brussels (liability), *Trabelsi v État belge*, 12 September 2022: order to inform Belgian witnesses of the infringement of the non bis in idem principle and the principle of speciality in extradition matters; order to request his return to Belgium; damages for his detention in the United States; order to act with regard to protecting his physical and mental integrity; damages for infringement of the right to marriage; adjournment of the case concerning the allegations of mistreatment during the 12 years of detention in solitary confinement in Belgium.