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U.S. Department of State

Belgium Country Report on Human Rights Practices for 1996

Released by the Bureau of Democracy, Human Rights, and Labor, January 30, 1997.

BELGIUM

Belgium is a parliamentary democracy under a constitutional monarch who plays a mainly symbolic role. The Council of Ministers (Cabinet), led by the Prime Minister, holds office as long as it retains the confidence of the lower house of the bicameral Parliament. Constitutional reforms enacted in 1993 transformed Belgium from a unitary into a federal state with several levels of government, including national, regional (Flanders, Wallonia, and Brussels), and community (Flemish, Francophone, and German) levels.

The Government maintains effective control of all security forces. The Police Judiciaire and the Belgian gendarmerie share responsibility for internal security with municipal police.

Belgium is a highly industrialized state with a vigorous private sector and limited government participation in certain industries. The economy, buttressed by an extensive social welfare system, supports a high standard of living for most citizens.

The Government fully respected the human rights of its citizens, and the law and an independent judiciary allow for effective means of dealing with instances of individual abuse.

RESPECT FOR HUMAN RIGHTS

Section 1 Respect for the Integrity of the Person, Including Freedom from:

a. Political and Other Extrajudicial Killing

There were no reports of political or other extrajudicial killings.

b. Disappearance

There were no reports of politically motivated disappearances.

c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment

The law prohibits such practices, and there were no reports that officials employed them.

Prison conditions vary. Newer prisons meet international standards. Older facilities meet or strive to meet minimum international standards despite their Spartan physical conditions and limited resources. The Government permits visits by human rights monitors. In September the prison system designed to hold 6,616 prisoners had 7,371 occupants. In late 1995, the Government adopted measures that allow alternative sentencing, such as time in substance abuse treatment centers or community service. Additionally, the Cabinet adopted separate measures that are intended to reduce the judicial backlog. Both sets of measures are designed to reduce prison overcrowding problems.

d. Arbitrary Arrest, Detention, or Exile

The law prohibits arbitrary arrest, detention, or exile, and the Government observes this prohibition. Arrested persons must be brought before a judge within 24 hours. Pretrial confinement is subject to monthly review by a panel of judges, which may extend pretrial detention based on established criteria (e.g., whether, in the court's view, the arrested person would be likely to commit further crimes or attempt to flee the jurisdiction if released). Bail exists in principle under the law but is rarely granted, and pretrial confinement is thus fairly common. Belgium no longer sees a need to separate convicted criminals and pretrial detainees. Pretrial detainees receive different benefits from convicted criminals, such as more frequent family visitation rights. Approximately 40 percent of the total prison population consists of pretrial detainees. Arrested persons are allowed prompt access to a lawyer of their choosing or, if they cannot afford one, an attorney appointed by the State.

e. Denial of Fair Public Trial

The Constitution provides for an independent judiciary, and the Government respects this provision in practice. The judiciary provides citizens with a fair and efficient judicial process, enforcing the law's provision for the right to a fair trial. The judicial system is organized according to the principles of specialization and territorial jurisdiction, with 5 territorial levels: canton (222), district (27), province (9), courts of appeal (5), and the whole Kingdom--the Cour de Cassation. The latter is the highest appeals court. When a preliminary judicial investigatory phase is completed, a suspect is formally charged if the evidence so warrants. Charges are clearly and formally stated, and there is a presumption of innocence. All defendants have the right to be present, to have counsel (at public expense if needed), to confront witnesses, to present evidence, and to appeal. Military tribunals try military personnel for common law as well as military crimes. All military tribunals consist of four officers and a civilian judge. At the appellate level the civilian judge presides. The accused has the right of appeal to a higher military court.

There were no reports of political prisoners.

f. Arbitrary Interference with Privacy, Family, Home, or Correspondence

The law prohibits such practices, government authorities respect these prohibitions, and violations are subject to effective legal sanction.

Section 2 Respect for Civil Liberties, Including:

a. Freedom of Speech and Press

The law provides for these freedoms, and the Government respects these rights in practice. An independent press, an effective judiciary, and a functioning democratic political system combine to ensure freedom of speech and of the press, including academic freedom.

The Government operates several radio and television networks but does not control program content. Programs are supervised by boards of directors which represent the main political, linguistic, and opinion groups. A government representative sits on each board but has no veto power. Private radio television stations operate with government licenses. Almost all homes have access by cable to television from other Western European countries and elsewhere abroad. Satellite services are also available.

There are restrictions on the press regarding libel, slander, and the advocacy of racial or ethnic discrimination, hate or violence.

b. Freedom of Peaceful Assembly and Association

The law provides for these rights, and the Government respects them in practice. Citizens are free to form organizations and establish ties to international bodies, but the Antiracism Law (see Section 5) prohibits membership in organizations that practice discrimination overtly and repeatedly.

c. Freedom of Religion

The Government does not hinder the practice of any faith. The law accords "recognized" status to Roman Catholicism, Protestantism, Judaism, Anglicanism, Islam, and Greek and Russian Orthodoxy, and these receive subsidies drawn from general government revenues. Taxpayers who object to contributing to religious subsidies have no recourse. By law each recognized religion has the right to provide teachers at government expense for religious instruction in schools, but not all avail themselves of this right.

In response to mass suicides in Switzerland in 1994 and in France in 1995, the Government established commission to create a policy to combat the alleged dangers that sects may represent to society, especially children. The commission's first task is to establish a working definition of "sect." No specific groups have been targeted, although "Temple Solaire," the group involved in the incidents in France and Switzerland, was mentioned in the initial parliamentary discussion.

d. Freedom of Movement Within the Country, Foreign Travel, Emigration, and Repatriation

The law provides for these rights, and the Government respects them in practice.

The Government cooperates with the United Nations High Commissioner for Refugees and other humanitarian organizations in assisting refugees. The Government provides first asylum and provided it

to 12,232 applicants in 1996, an increase of 7 percent over the 1995 number of applicants. A total of 1,588 applicants, mostly from previous years, were granted permanent status in 1996. All asylum seekers can plead their cases before immigration authorities. There were no reports of forced expulsion of those having a valid claim to refugee/asylee status. Prior to March 1995, the Government had a special procedure for refugees from the former Yugoslavia under which 5,000 to 6,000 persons received "displaced person" status, while their cases were further considered. Many of these individuals have since received permanent status.

As a result of a 1996 amendment to existing immigration law, asylum seekers arriving by air with no papers may be detained indefinitely in closed centers while awaiting consideration of their cases. Children in such centers do not attend school. At the discretion of the Minister of Interior, the Cabinet may exempt certain cities, which have already accepted large refugee populations, from giving legal residence to new refugees/asylees. Pursuant to the 1996 amendment to immigration law, asylum seekers awaiting consideration of their cases will no longer qualify for financial assistance but will be provided room and board at refugee centers.

Section 3 Respect for Political Rights: The Right of Citizens to Change Their Government

The law provides citizens with the right to change their government peacefully. Citizens age 18 and older exercise this right in practice through periodic, free, and fair elections held on the basis of universal and compulsory (under penalty of fine) suffrage. Direct popular elections for parliamentary seats (excluding some Senators elected by community councils and others elected by Senate members) are held at least every 4 years. Opposition parties operate freely.

The federal Government is responsible for such matters of state as security, justice, social security, and fiscal and monetary policy. The regional governments are charged with undertakings that directly affect the geographical region and the material well-being of its residents, such as commerce and trade, public works, and environmental policy. The linguistic community councils handle matters more directly affecting the mental and cultural well-being of the individual, such as education and administration of certain social welfare programs.

Women hold some high-level positions in the Government formed after the May 1995 general elections. Two of 15 federal ministers are women. In the federal Parliament, 18 of 150 House members and 18 of 71 Senators are women. The law requires that 33 percent of the candidates on the ballot in the next general election, to be held no later than 1999, be women.

The existence of communities speaking Dutch, French, and German engenders significant complexities for the State. Most major institutions, including political parties, are divided along linguistic lines. National decisions often take into account the specific needs of each regional and linguistic group.

Section 4 Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights

Numerous human rights groups operate without government restriction, investigating and publishing their findings on human rights cases. Government officials are very cooperative and responsive to their views.

Section 5 Discrimination Based on Race, Sex, Religion, Disability, Language, or Social Status

The law prohibits discrimination based on the listed factors, and the Government enforces it. With

Dutch, French, and German as official languages, Belgium has a complex linguistic regime, including language requirements for various elected and appointed positions.

Women

The Government actively promotes a comprehensive approach to the integration of women at all levels of decisionmaking. The Division of Equal Opportunity, a part of the Ministry of Labor, focuses specifically on issues affecting women, including violence against women, sexual harassment, and the participation of women in the political process. Based on the results of the 1995 assessment of the effectiveness of two hot lines established in recent years to assist victims of sexual harassment, and the nature and volume of the calls that continue to come in, the Ministry of Labor continues to operate the French and Flemish hot lines.

The law prohibits physical abuse of women, and the Government enforces this ban.

The law prohibits organizing prostitution or assisting immigration for purposes of prostitution.

Children

Belgium has comprehensive child protection laws, which the Government seeks to enforce. The Francophone and Flemish communities have agencies dealing with children's needs. Government and private groups provide shelters for runaways and counseling for children who have been physically or sexually abused. The Government provides a compulsory education program up to the age of 18.

In 1995 the Government enacted laws designed to repress the occurrence of child pornography by increasing penalties for those who commit such crimes and for those in possession of such materials. The law permits the Government to prosecute Belgians who commit such crimes abroad. Another 1995 law stated that criminals convicted of sexual abuse of children cannot receive parole without first receiving specialized assistance and must continue counseling and treatment upon release from prison.

In August Belgian authorities uncovered a pedophile/child pornography and trafficking ring, the extent of which was still being investigated at year's end. Police found two missing girls and the bodies of four others. They made 11 arrests in the case, but none of the suspects had come to trial by year's end. In response to allegations of corruption and complicity within the law enforcement and judicial system, including allegations that at least one policeman colluded with those charged in the case, the Ministry of Justice initiated several internal investigations into the conduct of the investigation of child disappearances. Consistent with the strong government response to this case, parliamentary committees were examining the performance of the judicial community in this investigation and evaluating the need to reform the judiciary. The policeman in question has been charged only in connection with the vehicle trafficking ring run by the same group. The Government had not released any results of these investigations by year's end.

The Government adopted a series of measures designed to strengthen its ability to fight organized crime rings domestically and internationally; to make it more difficult for those convicted of sexual crimes to be released from prisons early; and to create programs to support the victims and their families. Foreign Minister Erik Derycke made similar proposals at the World Congress Against the Commercial Sexual Exploitation of Children, which was held in Stockholm in August.

Children have the right to a voice in court cases that affect them, such as divorce proceedings. The law states that a minor "capable of understanding" can request permission to be heard by a judge, or a judge

can request an interview with a child. Child prostitution is of limited scope, but, in response to recommendations made in a 1994 government study, police have received instructions to be especially diligent in combating prostitution of those who appear to be under the age of 18.

There is no societal pattern of abuse directed against children.

People with Disabilities

The laws provide protection from discrimination against disabled people in employment, education, and in the provision of other state services. The Government mandates that public buildings erected since 1970 be accessible to the disabled and offers subsidies to induce owners of other buildings to make necessary modifications. Many older buildings, however, are not accessible to the disabled.

The Government provides financial assistance for the disabled. It offers special aid for parents of disabled children and for disabled parents. Regional and community programs provide other assistance, such as job training. Disabled persons are eligible to receive services in any of the three regions (Flanders, Wallonia, or Brussels), not just from the region in which they reside.

National/Racial/Ethnic Minorities

Belgium is a pluralistic society in which individual differences in general are respected and linguistic rights in particular are protected. Some 60 percent of citizens are native Dutch speakers; about 40 percent French speakers; and fewer than 1 percent German speakers.

An Antiracism Law penalizes incitement of discrimination, hate, or violence based on race, ethnicity, or nationality. It is illegal for providers of goods or services (including housing) to discriminate on the basis of any of these factors and for employers to consider these factors in their decisions to hire, train, or dismiss people.

The Center for Equal Opportunity and the Fight Against Racism, a parliamentary organization tasked with investigating complaints of discrimination based on race, handled 1,120 calls asking for information in the first 10 months of 1995. Some 644 of these calls were to make actual complaints, leading to court action in only 8 cases. Statistics for 1996 are not yet available.

Section 6 Worker Rights

a. The Right of Association

Under the Constitution, workers have the right to associate freely. This includes freedom to organize and join unions of their own choosing. The Government does not hamper such activities, and workers in fact fully and freely exercise their right of association. About 60 percent of the work force are members of labor unions. This number includes employed and unemployed workers. Retired workers are considered to be in the work force. Unions are independent of the Government but have important links with major political parties. As the Government does not require unions to register, there are no prohibitions against antiunion actions before registration.

Unions have the right to strike, and strikes by civil servants and workers in "essential" services are tolerated. The teachers, railway workers, and airport workers held strikes without government intimidation. Despite government irritation over wildcat strikes by air traffic controllers, no strikers were prosecuted. There were a number of significant labor strikes and work stoppages in 1996. (Ministry of

Labor data indicate 45 strikes in 1995 with no data available for 1996.) Even though many strikes begin as wildcat actions, strikers are not prosecuted for conducting illegal strikes.

The International Confederation of Free Trade Unions (ICFTU) in its "Annual Survey of Violations of Trade Union Rights 1996" noted a 1995 practice of using civil court rulings to end strikes. The ICFTU report stated that the rulings include a threat of fines against strikers. After noting that these rulings had been made without giving a hearing to the unions, the ICFTU report concluded that such rulings call question the free exercise of the right to strike. The ICFTU report acknowledged government efforts to solve this problem but also cited an assessment of the Socialist Trade Union Confederation that "nothing had come of the Government's commitment." On the other hand, there was a sharp decrease in the number of this kind of court ruling starting in late 1995 and throughout 1996. This development is a result of labor/management talks in 1996, which brokered an informal agreement to minimize court rulings in exchange for less secondary boycott activity by the unions.

Unions are free to form or join federations or confederations and are free to affiliate with international labor bodies.

b. The Right to Organize and Bargain Collectively

The right to organize and bargain collectively is recognized, protected, and exercised freely. Every other year the Belgian Employers Federation and unions negotiate a nationwide collective bargaining agreement, covering 2.4 million private sector workers, that establishes the framework for negotiations at plants and branches. Public sector workers also negotiate collective bargaining agreements. Collective bargaining agreements apply equally to union and nonunion members, and over 90 percent of workers are thus under collective bargaining agreements. As part of the Government's global economic reform plan, wage increases in both private and public sectors remain suspended, but this did not affect Belgium's wage indexation policy. This policy permits an across-the-board wage increase to keep workers' pay level with inflation.

The law prohibits discrimination against organizers and members of unions and protects against termination of contracts of members of workers' councils, members of health or safety committees, and shop stewards. Employers found guilty of antiunion discrimination are required to reinstate workers fired for union activities. Effective mechanisms such as the labor courts exist for adjudicating disputes between labor and management.

There are no export processing zones.

c. Prohibition of Forced or Compulsory Labor

Forced or compulsory labor is illegal and does not occur. Domestic workers and all other workers have the same rights as nondomestic workers. The Government enforces laws against those who seek to employ undocumented foreign workers.

d. Minimum Age for Employment of Children

The minimum age for employment of children is 15, but schooling is compulsory until the age of 18. Youth between the ages of 15 and 18 may participate in part-time work/study programs and may work full time during school vacations. The labor courts effectively monitor compliance with national laws and standards. There are no industries where any significant child labor exists.

e. Acceptable Conditions of Work

In May the monthly national minimum wage rate for workers over 21 years of age was set at \$1,432 (43,665 Belgian francs); 18-year-olds must be paid at least 82 percent of the minimum, 19-year-olds 88 percent, and 20-year-olds 94 percent. The minimum wage rate, coupled with Belgium's extensive social benefits, provides workers with a standard of living appropriate to a highly developed nation. Minimum wages in the private sector are set in biennial nationwide collective bargaining (see Section 6.b.), which leads to formal agreements signed in the National Labor Council and made mandatory by royal decree for the entire private sector. In the public sector, the minimum wage is determined in negotiations between the Government and the public service unions. The Ministry of Labor effectively enforces the law regarding minimum wages. By law the standard workweek cannot exceed 40 hours and must have at least one 24-hour rest period. Many collective bargaining agreements set standard workweeks of 36 to 39 hours. The law requires overtime pay for hours worked in excess of the standard. Work done from the 9th to the 11th hour per day or from the 40th to the 50th hour per week is considered allowable overtime. Longer workdays are permitted only if agreed upon in a collective bargaining agreement. These laws/regulations are enforced effectively by the Ministry of Labor and the labor courts.

Comprehensive provisions for worker safety are mandated by law. Collective bargaining agreements can supplement these laws. Workers have the right to remove themselves from situations that endanger their safety or health, without jeopardy to their continued employment, and the law protects workers who file complaints about such situations. The Labor Ministry implements health and safety legislation through a team of inspectors and determines whether workers qualify for disability and medical benefits. Health and safety committees are mandated by law in companies with more than 50 employees. Labor courts monitor effectively compliance with national health and safety laws and standards.

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