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U.S. Department of State

Belgium Country Report on Human Rights Practices for 1998

Released by the Bureau of Democracy, Human Rights, and Labor, February 26, 1999.

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 judiciary is independent.

The Government maintains effective control of all security forces. The Police Judiciaire and the Gendarmerie currently share responsibility for internal security with the municipal police, but the two organizations are to be merged at the federal level, and the Gendarmerie and municipal police are to be integrated at the local level under a new reorganization plan.

Belgium is a highly industrialized state with a vigorous private sector and limited government participation in industry. The primary exports are iron and steel. The economy supports a high standard of living for most citizens.

The Government generally respected the human rights of its citizens, and the law and the judiciary provide effective means of dealing with individual instances of abuse. Violence against women is a problem, and the Government passed legislation that criminalizes domestic violence to help protect women.

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.

In addition to the integration of the police forces, the reorganization plan calls for the creation of an independent oversight body for the federal police and also for the creation of a new anticorruption unit that is to be integrated into the federal police structure.

Prison conditions vary. Newer prisons meet international standards. Older facilities meet or nearly meet minimum international standards despite their Spartan physical conditions and limited resources. A month-long strike by prison guards in February led to a temporary worsening of prison conditions. Federal police filled in for prison guards during the strike. In December the prison system, designed to hold 7,533 prisoners, had 8,074 occupants. During 1997 and 1998, the Government expanded the capacity of the prison system by approximately 600 beds. The expansion program is intended to overall conditions and expand capacity to 8,000 beds by 2000.

The Government permits prison visits by human rights monitors.

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 if released). Bail exists in principle under the law but is granted rarely. The Government no longer separates convicted criminals and pretrial detainees. Pretrial detainees receive different benefits from convicted criminals, such as the right to more frequent family visits. 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, to an attorney appointed by the state.

The Government does not use forced exile.

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. The judicial system is organized according to specialization and territorial jurisdiction, with 5 territorial levels: Canton (225), district (27), provinces and Brussels (11), courts of appeal (5), and for the whole Kingdom--the "Cour de

Cassation." The latter is the highest appeals court.

The judiciary enforces the law's provision for the right to a fair trial. 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.

The Government continued to implement judicial reforms in the wake of public dissatisfaction with the handling of the 1996 Dutroux pedophile investigation (see Section 5). The reform legislation included the creation of a board of attorneys general, whose purpose is to oversee and streamline nationwide policy on criminal prosecutions. Changes also were made to the procedure governing the appointment and promotion of magistrates. The Government also created a High Council on Justice to supervise the appointment and promotion of magistrates. The Government plans for the Council to serve as a permanent monitoring board for the entire justice system and to be empowered to hear complaints against individual magistrates.

Following its review of the judicial system, the Government implemented several reforms that granted stronger rights to victims of crime. These measures allow victims to have more access to information during an investigation, as well as the right to appeal if an investigation does not reach a decision to bring charges. As part of its program of judicial reform, the Government in 1997 opened the first in a series of planned "justice houses." These facilities combine a variety of legal services under one roof, including legal aid, mediation, and victims' assistance. The Government plans to open 27 justice houses in 27 judicial districts by 2001.

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. Boards of directors that represent the main political, linguistic, and opinion groups supervise programs. A government representative sits on each board but has no veto power. Private radio and 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 religions receive subsidies 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. For recognized religions, the Government pays the salaries, retirement, and lodging costs of ministers and also subsidizes the renovation of church buildings.

Although Islam was declared a recognized religion in 1974, Muslims have not had an elected body to act as their representative in dealings with the federal government. In December Muslims held nationwide elections for an assembly consisting of 51 persons representing numerous communities of the Muslim faith. Of those elected, four were women. The Muslim representative body to be recognized by the Government is to be composed of 17 members appointed by the elected assembly and the current Muslim executive council.

The Evangelical Association (a group of Evangelical Christian organizations) continued to claim discrimination due to the Government's refusal to grant it recognized status separate from the Protestant religion. Despite the Government's refusal, it is negotiating with the group in an effort to ensure that the Evangelical Association enjoys the same benefits as recognized religions. The lack of independent recognized status does not prevent religious groups from practicing freely.

In 1997 a parliamentary commission, established by the Government to recommend a policy to deal the potential dangers that "sects" may represent to society--especially children--issued its report. It divided sects into two broadly defined categories: the report characterized a "sect" as any religious-based organization, and a "harmful sect" as a group that may pose a threat to society or individuals. Parliament adopted the report's recommendations. To implement one of the recommendations, in May Parliament passed legislation to create a "Center for Information and Advice on Harmful Sectarian Organizations." The Center is to collect open source information on a wide range of religious and philosophical groups and to provide information and advice to the public regarding the legal rights of freedom of association, freedom of privacy, and freedom of religion. The Government established a budget for the Center, which is scheduled to open early in 1999, but has not yet published regulations to govern its operations. The Center is authorized to propose policy or legislation on the problem of sects but is not authorized to provide opinions or assessments of individual sectarian organizations. The Government created an interagency body designed to work in conjunction with the Center to coordinate government policy on sects. Neither the Government nor Parliament has yet taken any action to establish a special police unit on sects or to designate special magistrates to monitor cases involving sects, which were two other recommendations of the 1997 commission.

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 office of the United Nations (U.N.) High Commissioner for Refugees and other humanitarian organizations in assisting refugees. The Government provides first asylum, and during the year 21,947 new applications for asylum were filed, compared with 11,817 in 1997. A total of 1,484 applicants, mostly from previous years, were granted permanent residence. Counting applications from previous years, 24,225 applications remained pending. Of new asylum seekers since May, 25 percent were displaced residents of Kosovo. No special procedures were established for these individuals.

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. A special program initiated in 1992 for refugees from the former Yugoslavia was discontinued at the beginning of the year. The displaced persons admitted under that program were allowed either to adjust their status and become permanent residents or to apply for political asylum.

Asylum seekers arriving by air with no papers are detained for up to 5 months while awaiting consideration of their cases. Children in such centers do not attend school. If no asylum decision has been reached by the end of the 5-month period, then the asylum seeker is released or voluntarily repatriated. 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.

In June a Senate commission recommended reforms to the immigration law designed to create a more "just and humane" immigration policy. The commission criticized the conditions in detention centers and advocated the upgrading and renovation of certain centers. In addition to improving the physical infrastructure of the centers, the commission recommended that detainees receive improved access to legal, medical, and social services. The commission also proposed the creation of a national body to oversee the quality of conditions in detention centers.

In September a young Nigerian woman, Semira Adamu, died following a struggle with police who were trying to repatriate her forcibly. Her case was reviewed by the Aliens Office and the Government's Commissioner for Refugees, who determined that her claim to refugee status was unfounded. During the repatriation attempt, Adamu was resisting police, and they placed a pillow over her face to subdue her. Adamu collapsed and later died. Following an autopsy, the authorities determined that the cause of death was asphyxiation. She had entered Brussels earlier during the year using fraudulent documents and claimed that she was fleeing Nigeria to avoid a forced marriage.

After the incident, the Minister of Interior revealed that two of the officers involved were disciplined previously for excessive use of force in another case. The three officers who restrained Adamu were charged with manslaughter, and the Government launched an investigation into the case. Shortly after the incident, the Government acknowledged that the use of a pillow to silence unruly detainees was standard procedure.

News of the incident provoked a number of demonstrations throughout the country calling for the resignation of the Minister of Interior and for drastic revisions to the country's asylum and repatriation policy. The Minister resigned several days later and took responsibility for the mistakes made by the police.

In the aftermath of this incident the Government adopted new policies on asylum in October, which mirrored recommendations made in June by the Senate Commission. The commission recommended and the Government agreed that the detention period for undocumented aliens should be limited to 5 months. Other changes included additional staff and funding for the immigration office, in order to

ensure the timely review of pending cases and visa issuance; the assignment of immigration officers abroad to assist airline personnel in reviewing passenger documentation during check-in; the enlargement of reception centers; and additional funding for social and legal services for asylum seekers. The changes in the law create a new category of temporary visa for illegal migrants in need of urgent medical attention.

The Government does not plan to change its repatriation policy, but the use of the "cushion"--to avoid screaming and biting--was eliminated. The use of manacles for hands and feet was retained, and the Gendarmerie unit that deals with forced repatriations is to be enlarged and better trained. Also, more specialized staff are to be recruited in order to facilitate voluntary repatriation. The maximum stay in detention centers was reduced from 8 to 5 months in line with the Senate commission report. A special commission is to be set up to monitor conditions in the detention centers, and a wider range of officials and welfare organizations are to have access to the centers in order to assess the living conditions. The Government measures also create a special commissioner to monitor asylum policy.

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 ages 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.

In July the European Court of Justice censured Belgium for failure to comply with a European Council directive requiring members states to accord to all citizens of European Union (EU) countries resident in another EU country the right to vote in municipal elections. In December Parliament approved a constitutional amendment that extends that right to EU citizens. Parliament was debating implementing legislation at year's end.

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 matters that directly affect the geographical regions and the material wellbeing of their 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 the administration of certain social welfare programs.

Women hold some high-level positions in the Government. 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 all future elections 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 elective and appointive positions.

Women

A 1997 parliamentary report described domestic violence against women as still "covered by a culture of silence." In one academic study, an eminent sociologist found that slightly less than 1 percent of the women in a particular town had reported incidents of domestic violence to the authorities. However, the number of unreported incidents is higher, and other studies suggest that approximately 6 percent of women in several other towns were abused by their domestic partners.

In February a law came into effect that defines and criminalizes domestic violence. The legislation protects married and unmarried partners. Women's groups see the legislation as an important step in recognizing conjugal violence as constituting a distinct offense from other forms of aggression. The legislation allows social organizations to represent victims of domestic violence in court provided that they have the victim's consent. The legislation also requires the Government to maintain a database of statistics on the subject, but by year's end the Government had yet to make any progress on implementing any provisions of the law and did not yet have any accurate statistics on domestic violence.

A number of shelters and telephone help lines operate throughout the country. In addition to providing women with shelter and advice, many offer assistance on legal matters, job placement, and psychological counseling for both partners. Approximately 80 percent of these organizations' budgets are provided by one of the three regional governments.

The law prohibits organizing prostitution or assisting immigration for the purpose of prostitution, but not prostitution itself. Parliament enacted a law in 1995 that defined and criminalized trafficking in human beings. Under this law, victims of trafficking may be granted temporary residence permits and are eligible to receive aid from government-funded reception centers. Since 1994 the majority of cases were victims of either sexual or economic exploitation. The victims of sexual exploitation are increasingly women under the age of 18. Since enactment of this law, a magistrate was designated in each judicial district to supervise cases involving human trafficking. During the year, 244 women from over 30 countries were victims of human trafficking. The largest number of victims (65) were of Nigerian origin.

Equal treatment of men and women is provided for by the Constitution, federal law, and treaties incorporated into law. 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. Beginning in 1999, federal law requires that one-third of all candidates for elected office be women.

Sexual harassment is illegal. The Government implemented procedures to monitor sexual harassment claims in the private sector in 1992 and in the public sector in 1995. Victims of sexual harassment have the right to sue their harassers under existing law.

Children

The Government demonstrates its strong commitment to children's rights and welfare through its well-funded system of public education and health care. It provides compulsory education up to the age of 18. The Francophone and Flemish communities have agencies specifically dealing with children's needs.

Government and private groups provide shelters for runaways and counseling for children who have been physically or sexually abused.

There are comprehensive child protection laws. 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 that a judge can request an interview with a child. In 1995 the government enacted laws designed to combat child pornography by increasing penalties for such crime