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1999 Country Reports on Human Rights Practices

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BELGIUM

Belgium is a parliamentary democracy with 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 reorganization plan that is to be implemented fully by April 1, 2001.

The country is highly industrialized, with a vigorous private sector and limited government participation in industry. The primary exports are iron and steel. The economy provides 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. The Government is taking steps to combat violence against women and trafficking in women and children.

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.

In February Parliament enacted legislation that further defines crimes against humanity, war crimes, and genocide and also imposes penalties for such crimes.

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.

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. In September the prison system, designed to hold 7,533 prisoners, held 8,350 inmates. A continuing program is intended to improve overall conditions and expand capacity to 8,000 beds by 2000. Women and men are housed in separate prisons. Men constitute 95 percent of all detainees. A third of male prisoners are under the age of 25; 70 percent are under the age of 35.

The Government permits prison visits by human rights monitors.

d. Arbitrary Arrest, Detention, or Exile

The law prohibits arbitrary arrest and detention, 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 law prohibits exile, and the government does not employ it.

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.

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.

Each judicial district has a Labor Court, which deals with litigation between employers and employees regarding wages, notice, competition clauses, and social security benefits.

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

The Government continued to implement judicial reforms in the wake of public dissatisfaction with the handling of the 1996 Dutroux pedophile investigation (see Section 6.f.). 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 in 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 result in a decision to bring charges. As part of its program of judicial reform, the Government since 1997 opened 11 "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 a justice house in the remaining 16 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.

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. A law passed in February prevents political parties that espouse discrimination from receiving federal funds.

Academic freedom is respected.

b. Freedom of Peaceful Assembly and Association

The law provides for freedom of assembly, and the Government respects this provision in practice. However, during the year two demonstrations were banned. In March the city of Brussels banned all protests and demonstrations concerning the NATO air strikes in Kosovo. City authorities cited law and order reasons for this decision. In April a local politician climbed the fence at Klein Brogel air base as part of an antinuclear demonstration and was cited for breaking and entering. Local authorities banned future antinuclear demonstrations at the base. In July a district judge ruled that the legal case against the politician did not fall under the jurisdiction of the district court. No further action was taken on the matter.

The law provides for freedom of association, and the Government respects this provision in practice. Citizens are free to form organizations and establish ties to international bodies; however, the Antiracism Law (see Section 5) prohibits membership in organizations that practice discrimination overtly and repeatedly. In April a district judge in Ghent ruled that the "Hells Angels" are a private militia as defined by the law and ordered that the group be disbanded. The organization appealed the decision and related sanctions, and the appeal verdict was pending at year's end.

c. Freedom of Religion

The Constitution provides for freedom of religion, and the government respects this right in practice. 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 expenses of ministers and also subsidizes the renovation of church buildings.

The lack of independent recognized status generally does not prevent religious groups from freely practicing their religions.

However, in September 110 national police officers raided Church of Scientology facilities and the homes and businesses of about 20 members of the Church. One

member's home in France was raided simultaneously by the French authorities. At year's end, an investigation continued, and no arrests had been made.

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 1998, 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 recognized by the Government currently is composed of 16 members appointed by the elected assembly and the current Muslim executive council. A 17th member may be appointed in the future, although no individual has been named to fill this position.

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 by mediating discussions to enable the evangelical association to obtain a seat in the leadership of the recognized Protestant church.

In 1998 Parliament adopted recommendations from a 1997 commission's report on government policy toward sects, particularly sects deemed "harmful" under the law. The report divided sects into two broadly defined categories: It characterized a "sect" as any religious-based organization, and a "harmful sect" as a group that may pose a threat to society or individuals. One of the primary recommendations was to create a "Center for Information and Advice on Harmful Sectarian Organizations." The Center opened in October and is working with a limited staff of two persons. It is tasked with collecting publicly available information on a wide range of religious and philosophical groups and providing information and advice to the public regarding the legal rights of freedom of association, freedom of privacy, and freedom of religion. The Government has not yet published regulations for its operations. In 1998 the Government also created an interagency body designed to work in conjunction with the Center to coordinate government policy on sects, but this body had not been set up by year's end. Nor had the Government or Parliament 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.

The parliamentary report also recommended that the country's community governments sponsor information campaigns to educate the public--especially children--regarding the phenomenon of harmful sects. In March the Francophone Community government launched a prevention campaign called "Gurus, Beware!" The campaign was intended to fulfill the commission's recommendation to educate the country's youth on the dangers posed by harmful sects. Information for the campaign was disseminated through pamphlets, brochures, television, and motion picture advertisements. On one page, the brochure discussed 20 of the groups listed in the 1997 commission report and stated that the country harbors certain "dangerous sects." In April 1999, one of the groups discussed in the brochure, the Anthroposophic Society (which is based in Antwerp), filed suit to halt its distribution. An Antwerp court issued an order enjoining the Francophone Community government from further distribution of the brochure until all defamatory language referring to this group was removed from the text. The Francophone Community agreed not to publish any additional brochures.

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 law include provisions for granting refugee or asylee status in accordance with the 1951 U.N. Convention Relating to the Status of Refugees and its 1967 Protocol. The Government cooperates with the office of the U.N. High Commissioner for Refugees and other humanitarian organizations in assisting refugees. The Government provides first asylum, and during the first 11 months of the year approximately 31,000 new applications for asylum were filed, compared with 21,947 for all of 1998. A total of 1,404 applicants, mostly from previous years, were granted permanent residence. Counting those from previous years, 33,730 applications remained pending. Of new asylum seekers during the year, 35 to 40 percent were displaced residents of Kosovo.

In May the Government decided to extend special asylum status to about 15,000 Kosovar Albanian refugees who entered the country illegally in the past year. This regularization of status enabled these refugees to receive the same benefits, including the right to work and claim social security benefits, as 1,200 Kosovars already welcomed by the Government. In late 1999, the Government planned to abolish the special status held by Kosovars, but those still holding this special status are to be able to obtain extensions for up to 6 months. They may then apply for regular refugee status, which 2,300 members of this group already have done.

Extensions of a special program initiated in 1992 for refugees from the former Yugoslavia were 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. The children 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 or asylees.

In 1998 a Senate commission recommended reforms to 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 1998, a Nigerian woman died following a struggle with police who were trying forcibly to repatriate her. In the aftermath of this incident the Government fully adopted new policies on asylum in 1999, which mirrored recommendations made earlier that year by the Senate commission with regard to matters such as limiting the period of detention, adding staff and funding, reviewing cases and documentation, and enlarging reception centers. The Government also created a task force to monitor asylum policy in

November. In addition, based on the recommendations, the Gendarmerie unit that deals with forced repatriations was enlarged and better trained.

After the change in government in July, immigration and asylum measures became a focus of the new Government. The Minister of Interior created working groups to develop a plan for the Government and hired a significant number of additional officials in the Aliens Office to handle processing and interviewing.

As a first step in the comprehensive changes in asylum and immigration policies, in October the Government initiated a mass repatriation of 74 Slovak Roma who were denied asylum. Some reports indicated that not all deportees departed voluntarily but were tricked into appearing for the repatriation. In December the Government used military aircraft to carry out a second repatriation. This time 15 Nigerians who were living illegally in Belgium were sent home.

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 1998 the European Court of Justice censured Belgium for its 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 1998 Parliament amended the Constitution to extend that right to EU citizens and passed implementing legislation in January.

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 well-being 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 are underrepresented in government but hold some senior positions. Of 18 federal ministers, 3 are women. In the Federal Parliament, 34 of 150 house members and 20 of 71 Senators are women. These numbers show a slight increase in the role of women in the Federal Government, partially due to a 1998 law that requires that 33 percent of the candidates on the ballot in all elections be women. Following the June 13 general elections, for the first time two women became Vice Premiers in the Cabinet.

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 these factors, and the Government enforces it. With Dutch, French, and German as official languages, the country has a complex linguistic regime, including language requirements for various elective and appointive positions. In February the Senate passed a new law intended to prevent official financing of any racist or xenophobic party or any party that does not respect human rights. 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.

A 1998 law defines and criminalizes domestic violence. The legislation aims to protect married and unmarried partners. Women's groups believe that it is an important step in recognizing domestic violence as constituting a offense distinct 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. In early 1999 a law was passed allowing police entry into a home without the consent of the head of household when investigating a domestic violence complaint. According to its proponents, the police do not use the law enough. The legislation also requires the Government to maintain a database of statistics on the subject, but by year's end it had not made 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 persons, but cases of trafficking in women continued (see Section 6.f.).

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. A 1998 government investigation of sexual harassment determined that one out of three women is harassed sexually in the workplace. Due to improper interpretation of sexual harassment

and victim denial, this figure is considered understated.

In May a revision of the law on equal opportunity in the workplace was passed, which stated that sexual harassment can be a form of sexual discrimination. The act outlaws discrimination in hiring, working conditions, promotion, wages, and contract termination. Due to the revision, sexual harassment can result in civil and administrative action by the Ministry of Labor. It now has a broader legal basis in court, and victims of sexual harassment have an additional recourse--reversal of proof, which requires the defendant to provide evidence in the case. Reversal of proof only occurs in cases in which sexual harassment is judged in a court as a form of sexual discrimination. As a result of the new codes, more cases now go to the Labor Court. However, despite the new laws, most cases of sexual harassment are resolved informally.

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.

The female unemployment rate (10.9 percent at the end of 1998) exceeded the male unemployment rate (6.7 percent), according to one government study released in June. The net average salary for a woman is only 84 percent of the national average salary.

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 were abused physically or sexually.

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 crimes and for those in possession of pedophilic materials. The law permits the prosecution of Belgian citizens who commit such crimes abroad and provides that criminals convicted of the sexual abuse of children cannot receive parole without first receiving specialized assistance and must continue counseling and treatment upon their release from prison.

Belgium is both a transit point and a destination for trafficking in children (see Section 6.f.).

In another response to public criticism of the handling of the pedophile case (see Sections 1.e. and 6.f.), t