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## 2009 Human Rights Report: Belgium

BUREAU OF DEMOCRACY, HUMAN RIGHTS, AND LABOR

### 2009 Country Reports on Human Rights Practices

March 11, 2010

The Kingdom of Belgium, with a population of approximately 10.7 million, is a parliamentary democracy with a constitutional monarch who plays a mainly symbolic role. The country is a federal state with several levels of government: national, regional (Flanders, Wallonia, and Brussels), language community (Flemish, French, and German), provincial, and local. The council of ministers (cabinet), led by the prime minister, holds office as long as it retains the confidence of the lower house (Chamber of Representatives) of the bicameral parliament. Federal parliamentary elections held in 2007 were considered free and fair. Civilian authorities generally maintained effective control of the security forces.

The following human rights problems were reported: overcrowded prisons, lengthy pretrial detention, poor detention conditions prior to expulsion of adults and children whose asylum applications were refused, violence against women, child abuse, trafficking in persons, and racial and ethnic discrimination in the job market.

#### RESPECT FOR HUMAN RIGHTS

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

a. Arbitrary or Unlawful Deprivation of Life

There were no reports that the government or its agents committed arbitrary or unlawful 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 government officials employed them.

In 2008 the European Convention on Human Rights (ECHR) issued a judgment that found one violation by the country of provisions prohibiting inhuman or degrading treatment.

Prison and Detention Center Conditions

Prison and detention center conditions met most international standards, but overcrowding remained a problem. The government permitted monitoring visits by independent human rights observers, and such visits occurred during the year.

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On average in 2008, 9,891 inmates occupied prison and detention facilities. By year's end the number of inmates had reached 10,327 in facilities with a designed capacity of 8,529.

In June the human rights commissioner of the Council of Europe (CE) issued a report noting that 75 percent of all prisons in the country were overcrowded. He also expressed concern over the dilapidated state of some prisons and shortcomings in the supply of health care. Although the government upgraded some older facilities, incarcerations outpaced construction. Forty percent of all inmates were noncitizens, which prompted authorities to address cultural diversity in the prisons by allowing inmates to practice their religious beliefs and providing meals that met the dietary requirements of different religions. An independent Central Control Council oversees the prisons.

The government permitted visits to prisons and detention centers by members of parliament and independent human rights groups during the year. From September 28 to October 7, the CE's Committee for the Prevention of Torture carried out its fifth visit to the country that focused on prison conditions, safeguards against police mistreatment of persons in custody, and conditions at the detention camp for irregular migrants in Vottem and at other facilities where persons were incarcerated.

During the year the Justice Ministry continued implementing the 2008-12 master plan for building seven new penitentiaries and upgrading existing infrastructure.

#### d. Arbitrary Arrest or Detention

The law prohibits arbitrary arrest and detention, and the government generally observed these prohibitions.

#### Role of the Police and Security Apparatus

The federal police are responsible for internal security and nationwide law and order. Local police operated branches in 196 police districts. The federal police General Inspection Service handled 1,179 complaints in 2008, and there were 87 files handled by its disciplinary commission. An independent oversight committee (Committee P) also monitored police activities. In a report submitted to parliament in January, the committee stated that it had received 6,244 complaints about federal and local police conduct, including discriminatory behavior, brutality, racism, failure to intervene, violations of privacy, and arbitrary detention. The committee noted that police officers often failed to observe rules and regulations when dealing with undocumented aliens, prostitutes, and squatters.

#### Arrest Procedures and Treatment While in Detention

Under the constitution, an individual can be arrested only while committing a crime or by a judge's order carried out within 24 hours. The law provides a person in detention the right to a prompt judicial determination of the legality of his or her detention, and the authorities generally respected this right. Detainees were promptly informed of charges against them. There is a functioning bail system. Alternatives to incarceration included conditional release, community service, probation, and electronic monitoring. In 2008 the Justice Ministry handled 10,131 alternative punishment files (e.g., community service), compared with 9,847 the previous year. By year's end an additional 987 convicts were electronically monitored outside of prison premises.

The law provides rights to inmates regarding disciplinary matters, correspondence, telephone conversations, and religious practice. Brochures were distributed to inmates informing them about their rights. Implementation courts are responsible for handling release issues, penitentiary leave, and electronic monitoring. In 2007 legislation came into force offering

better protection to offenders with mental disorders, and the government implemented plans to treat more of these inmates outside of prisons. The legislation allows authorities to keep inmates imprisoned after completing their sentences if the court determines that their release might endanger the public.

According to 2009 figures, pretrial detainees made up almost 34 percent of the prison population. The average length of pretrial detention was approximately 90 days.

In 2008 the ECHR issued a judgment that found one violation by the country of the right to liberty and security as provided by the ECHR.

#### e. Denial of Fair Public Trial

The constitution and law provide for an independent judiciary, and the government generally respected judicial independence in practice.

#### Trial Procedures

The constitution provides for the right to a fair trial, and an independent judiciary generally enforced this right. All defendants are presumed innocent and have the right to be present, to counsel (at public expense if necessary), to confront witnesses, to present evidence, and to appeal.

On January 13, the ECHR ruled that a defendant in a 2004 murder case was denied a fair hearing as the jury had failed to justify its verdict. Such a justification had not been required under the law. In December parliament adopted changes to the law governing how trial courts operate, adding the requirement for juries to justify their verdicts.

In 2008 the ECHR issued judgments that found one violation by the country of the right to a fair trial and nine violations by the country involving length of proceedings as provided under the ECHR.

The law gives domestic courts jurisdiction over war crimes and crimes against humanity that occurred outside the country when the victim or perpetrator is a citizen or legal resident of the country.

#### Political Prisoners and Detainees

There were no reports of political prisoners or detainees.

#### Civil Judicial Procedures and Remedies

There is an independent and impartial judiciary in civil matters. Plaintiffs can seek damages either individually or through specialized organizations for human rights violations under the applicable antidiscrimination legislation.

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

The constitution and legal code prohibit such actions, and the government generally respected these prohibitions in practice. The Commission for the Protection of Private Life monitored privacy-related matters and issued advisory opinions to the relevant authorities.

In 2008 the ECHR issued a judgment that found one violation by the country of the right to respect for private and family life as provided by the ECHR.

### Section 2 Respect for Civil Liberties, Including:

#### a. Freedom of Speech and Press

The constitution and law provide for freedom of speech and of the press, and the government generally respected these rights in practice. An independent press, an effective judiciary, and a functioning democratic political system combined to ensure freedom of speech and of the press.

The law prohibits public statements that incite national, racial, or religious hatred, including denial of the Holocaust. The maximum sentence for Holocaust denial is one year's imprisonment. In June 2008 two individuals were each sentenced to one year's imprisonment, fined 24,789 euro (approximately \$34,700), and denied their civil and political rights for 10 years for having over a long period denied the Holocaust in brochures and leaflets. On June 15, a Charleroi court convicted a man for having made a Nazi straight-arm salute during his swearing-in ceremony as city councilor and denied him the right to run for elected office for a five-year period.

Individuals could criticize the government publicly and privately without reprisal.

#### Internet Freedom

There were no government restrictions on access to the Internet or reports that the government monitored e-mail or Internet chat rooms. Individuals and groups could engage in the peaceful expression of views via the Internet, including by e-mail. In cooperation with the government, Child Focus, a government-sponsored center for missing and exploited children, developed programs to warn users of Web sites containing illegal content, especially child pornography.

Internet connections rose to 2.9 million during the year, and 60 percent of all households had Internet connectivity. According to International Telecommunications Union statistics for 2008, approximately 69 percent of the country's inhabitants used the Internet.

During the year authorities took action against a Dutch national who started a Web site that posted the whereabouts in the country of convicted pedophiles, by blocking access to the Web site upon order from the Federal Prosecuting Office.

#### Academic Freedom and Cultural Events

There were no government restrictions on academic freedom or cultural events.

#### b. Freedom of Peaceful Assembly and Association

The constitution and law provide for freedom of assembly and association, and the government generally respected these rights in practice.

#### c. Freedom of Religion

The constitution and law provide for freedom of religion, and the government generally respected this right in practice.

The law accorded "recognized" status to six religions and a grouping of nonconfessional philosophical or secular organizations, each of which received financial benefits from the federal and regional governments. The lack of recognized status did not prevent other religious groups from freely practicing their religions, and citizens generally practiced religion without official harassment or impediment. During the year the Buddhist secretariat began receiving subsidies as a "nonconfessional" philosophical community meriting state support.

Scientologists continued to experience a strained relationship with the government. On May 12, the Brussels Chamber of Indictment started hearings in the case against the Scientology Church of Belgium, based on a 12-year investigation of the group. The federal prosecutor sought the indictment of 12 persons, the Scientology Church of Belgium, and the Human

Rights Office of the church. The charges included embezzlement, racketeering, unlawfully performing medical acts, and forming a criminal organization.

In October 2008 police raided a Sikh temple in Vilvoorde, near Brussels, as a religious ceremony was taking place. Of the 49 worshippers present, 46 were illegally living in the country. Following public criticism that police lacked respect for religious freedom, the local police chief asserted that police had not been informed in advance about the ceremony. Police claimed that there was evidence that many of those present at the ceremony were smuggled into the country. On June 17, the court dropped charges against all 15 members of the alleged ring, who had been charged with smuggling the illegal Sikh immigrants.

The Center for Information and Advice on Harmful and Sectarian Organizations (CIAOSN), an agency funded by the Justice Ministry that provides nonbinding advice to the public and public institutions, received several hundred requests for information about particular groups. In February 2008 a Brussels court issued a final ruling that CIAOSN had wrongly identified Shaya Yoga as a dangerous sect in one of its publications. CIAOSN appealed the ruling.

#### Societal Abuses and Discrimination

In its 2008 annual report, the Center for Equal Opportunity and the Combat against Racism (CEOCR) warned against growing societal violence, harassment, and discrimination against Muslims. Of the 105 religious discrimination incidents reported by the public to the center, 94 concerned discrimination against Muslims. Of the 430 Internet hate incidents that were reported 80 percent were against Muslims.

The size of the Jewish community was estimated at 40,000 to 50,000. During the year there were reports of a number of anti-Semitic acts, including attacks against persons, verbal harassment of Jews, and vandalism of Jewish property. The law prohibits public statements that incite national, racial, or religious hatred, including denial of the Holocaust.

Anti-Semitism expressed itself through youth violence (almost exclusively from Muslim extremists). Consequently, many Jews were afraid to wear religious symbols in public. Violence in the Middle East was mirrored in increased tension between Jews and Muslims. A group of Jewish community leaders stated that Jews lacked public support and faced an anti-Israel bias in the media during the Gaza incursion in January.

The CEOCR registered 108 anti-Semitic incidents during the year, compared with 66 in 2008. The Jewish defense organization [antisemitisme.be](http://antisemitisme.be) registered 101 incidents during the year, compared with 73 in 2008. During the year there was a noticeable increase in Internet hate messages. In addition there were reports of anti-Semitic graffiti on Jewish homes and of persons insulting Jews on the street. During the year antisemitisme.be reported 10 incidents involving physical violence and four incidents involving Holocaust denial.

On January 23, the Brussels Appellate Court convicted two managers of the Web site of the Islamic Center of Belgium for inciting hatred and violence against Jews. They were fined 2,000 euro (approximately \$2,860) and given a provisional one-month prison sentence if they failed to pay the fine. The two had been originally convicted in 2006.

For a more detailed discussion, see the *2009 International Religious Freedom Report* at [www.state.gov/g/drl/rls/irf](http://www.state.gov/g/drl/rls/irf).

#### d. Freedom of Movement, Internally Displaced Persons, Protection of Refugees, and Stateless Persons

The constitution and law provide for freedom of movement within the country, foreign travel, emigration, and repatriation, and the government generally respected these rights in practice. The government cooperated with the Office of the UN High Commissioner for Refugees and other humanitarian organizations in providing protection and assistance to refugees, asylum seekers, stateless persons, and other persons of concern.

## Protection of Refugees

The country is a party to the 1951 Convention relating to the Status of Refugees and its 1967 Protocol. Its laws provide for the granting of asylum or refugee status, and the government has established a system for providing protection to refugees.

The law allows authorities to grant "subsidiary protection" to individuals who may not qualify as refugees and who could establish that upon return to their home country they would face the death penalty, torture, or other inhuman treatment. During the year 416 applicants, most of them from Afghanistan and Iraq, qualified for subsidiary protection.

During the year 17,186 applications were filed for a total of 22,785 asylum seekers, compared with 12,252 applications in 2008. Most applicants came from Afghanistan, Russia, Kosovo, or Iraq. The Commissariat for Refugees awarded refugee status to 2,303 applicants. Most accepted refugees came from Iraq, Russia, and Guinea.

During the year scores of asylum seekers who stayed in the country illegally after their applications were refused took refuge in churches, went on hunger strikes, and climbed tower cranes to draw public attention to their situation. On the eve of the summer recess, the government reached agreement on a new set of criteria for awarding residence permits for undocumented aliens. The latter were allowed to submit applications between September and December. The newly defined criteria concerned aliens who had become victims of an unduly long asylum application period, undocumented aliens who were living in a precarious humanitarian situation or who could prove that they were integrated into society, either by having lived in the country for at least five years, or by having been gainfully employed for at least one year.

Regularization on the grounds of an unduly long application period, for urgent humanitarian reasons, or on medical grounds was granted to 8,369 applicants in 2008, compared to 11,335 the previous year. In 2008 the number of applications for refugee status on humanitarian grounds exceeded the number of asylum applications. During the year FEDASIL, the government agency providing shelter for refugees, the Red Cross, and local governments provided assistance to an average of 18,150 persons but lacked capacity to deal with the growing demand. In 2007 a new refugee relief act came into force, under which refugees who spent four months in a collective relief center qualified for independent living and were permitted to leave the centers.

Following a critical report from a European Parliament commission, the government announced that unaccompanied minors stopped at the border were no longer being held in closed centers, but in specialized observation and orientation centers. Minors held with their parents had access to individualized education. During the year FEDASIL provided shelter to 645 unaccompanied foreign minors.

In practice the government provided protection against the expulsion or return of refugees to countries where their lives or freedom would be threatened on account of their race, religion, nationality, membership in a particular social group, or political opinion.

Refused asylum seekers were informed in writing and in person of the repatriation scenarios from which they could choose. The government, in partnership with the International Organization for Migration (IOM), provided relocation assistance to unsuccessful asylum applicants who agreed to return voluntarily to their countries of origin. Unsuccessful applicants who did not leave voluntarily were subjected to forced repatriation. A report issued during the year showed that between 1984 and 2009, over 40,000 refused asylum seekers and other immigrants were repatriated under the IOM-sponsored Return and Emigration of Asylum Seekers ex-Belgium program. Between January and November, 2,446 immigrants used the program. This figure was in line with that of the previous year, when 2,446 persons were repatriated under IOM auspices. Refused families with children qualified for temporary individual housing. In 2008 6,902 persons were assigned to the closed centers, compared with 7,506 persons in 2007. Their average stay in closed centers was 36 days.

Most refugees held at these centers came from Romania, Brazil, Morocco, Bulgaria, or Russia. The Council of Europe human rights commissioner, members of parliament, and representatives from the International Federation of Human Rights Organizations visited the closed centers to verify living conditions. Nongovernmental organizations (NGOs) complained that living conditions at the closed centers for refused asylum seekers were substandard. The government started to refurbish the closed centers at the Brussels national airport.

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

The constitution provides citizens with the right to change their government peacefully, and citizens ages 18 and older exercised this right through periodic, free, and fair elections based on universal suffrage. Voting in all elections is compulsory. Failure to vote is punishable by a nominal fine.

#### Elections and Political Participation

General elections were held in 2007; they were considered free and fair. Political parties could operate without restriction or outside interference.

On June 7, the country held elections for representatives to the country's regional parliaments as well as to the European Parliament; the elections were considered free and fair.

The constitution requires the presence of men and women in federal, regional, and local governments, and the law requires an equal number of male and female candidates on party tickets, in European, federal, regional, provincial, and local elections. Failure to meet the requirement would nullify the elections and render any government created thereby illegal.

There were 57 women in the 150-seat federal Chamber of Representatives and 29 women in the 71-seat Senate; four of the 22 federal cabinet ministers and state secretaries were women, and 10 of the 31 regional ministers were female. Following the June 7 regional elections, the representation of women reached 44 percent in the Brussels parliament, 41 percent in the Flemish parliament, and 35 percent in the Walloon parliament.

There were five members of minorities in the Chamber of Representatives, three in the Senate, and two minority ministers in regional governments.

Legislation is in force to guarantee female presence in public advisory agencies.

### Section 4 Official Corruption and Government Transparency

The law provides criminal penalties for official corruption, and the government generally implemented these laws effectively. Elected officials and high-level civil servants are required to disclose any regular private employment or public jobs they hold and to provide confidential disclosure of their financial situation.

The judicial investigation in the case of active and passive corruption charges in connection with public building contracts continued. During the year a judicial investigation was opened regarding a construction contract for a juvenile delinquency center.

The law provides public access to government information with some exceptions such as information involving national security. In practice the government respected this law.

### Section 5 Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights

A wide variety of domestic and international human rights groups generally operated without government restriction, investigating and publishing their findings on human rights cases. Government officials were generally cooperative and responsive to their views. The government-sponsored CEOCR is tasked with promoting equal opportunity and with combating all forms of discrimination, exclusion, or preferential treatment based on race, skin color, descent, national or ethnic origin, sexual orientation, marital status, birth, wealth, age, religion or ideology, physical condition, disability, or physical characteristics. The center is tasked with ensuring respect for the basic rights of foreigners and informs the authorities on migration issues, including smuggling and trafficking. The center is tasked with promoting consultation among public and private players, and it has the authority to start litigation regarding complaints sent to the center.

Federal and regional government ombudsmen monitor and publish reports on the workings of the agencies coming under their respective jurisdictions. During the year the federal ombudsman released a report on the closed centers for rejected asylum seekers.

The government cooperated with international tribunals in the prosecution of war crimes. In May 2008 police arrested Jean -Pierre Bemba, the leader of the Movement for the Liberation of Congo and a former Congolese vice president, after an arrest warrant was issued by the International Criminal Court. Bemba was charged with crimes against humanity and war crimes and transferred to The Hague in July 2008. His trial was scheduled for April 2010.

#### Section 6 Discrimination, Societal Abuses, and Trafficking in Persons

The law prohibits discrimination based on race, gender, disability, language, or social status, and the government generally enforced these prohibitions.

The law identifies 18 grounds of possible discrimination subject to legal penalty: age, sexual orientation, civil status, birth, financial situation, religious belief, philosophical orientation, physical condition, disability, physical characteristics, genetic characteristics, social status, nationality, race, color of skin, descent, national origin, and ethnic origin. A separate law governs gender discrimination in the workplace. Under a directive issued by the Board of Prosecutors General, the police and prosecutors must mention racial motivation when recording offenses.

#### Women

Rape, including spousal rape, is illegal, and the government prosecuted such cases. In 2008 the federal police registered 2,786 rape cases, compared with 3,111 the previous year. A convicted rapist can be imprisoned for a minimum of 10 years to a maximum of 30 years. The length of sentence is based on the age of the victim, the age difference between the offender and the victim, the relationship between the offender and victim, and the use or absence of violence during the crime. The minimum age for consensual sex is 16 years old. Statutory rape with anyone under the age of 16 years old carries penalties of imprisonment from 15 to 20 years. If the victim is under the age of 10 years old, the imprisonment rises to 20 to 30 years.

Domestic violence against women, including spousal abuse, remained a problem. The federal police reported 10,460 such cases of physical violence between partners during the first half of the year, compared with 19,768 cases in 2008 and 16,532 cases in 2007. The federal police registered 63 cases of sexual violence between partners during the first half of the year, compared with 131 cases in 2008 and 129 cases in 2007. There were 8,391 cases of psychological violence between partners during the first half of the year, compared with 16,927 cases in 2008 and 18,356 cases in 2007. The law defines and criminalizes domestic violence and provides for fines and incarceration. The law allows police to enter a home without the consent of the head of household when investigating a domestic violence complaint; however, there were complaints that the police frequently declined to take such action in practice. A plan for dealing with domestic violence was

in force, and the regional governments formally joined the effort. Police forces and prosecuting magistrates registered all complaints and official actions taken in connection with domestic violence.

A number of government-supported shelters and telephone help lines were available across the country for victims of domestic abuse. In addition to providing shelter, many offered assistance on legal matters, job placement, and psychological counseling to both partners.

In a report to the Senate in 2008, the federal police noted 17 honor killings had taken place over a five-year period. During the year the Institute for the Equality of Men and Women claimed damages in the case of a Pakistani woman who died in an honor killing resulting from a failed arranged marriage. Following a recommendation by the Senate, the justice minister and the federal police took measures to improve identification of honor killings.

Prostitution is legal; however, the law prohibits organizing prostitution or assisting immigration for the purpose of prostitution. There were reports that women and girls were trafficked to the country for the purpose of prostitution, and there were a number of arrests and convictions on related charges.

The law prohibits discrimination on the grounds of gender, pregnancy, motherhood, or sex change. It also prohibits sexual intimidation in labor relations and in access to goods, services, social welfare, and health care. Separate legislation prohibits sexual harassment in the workplace, and the government generally enforced it. A victim of sexual harassment in the workplace can claim damages in a court of justice. Victims of sexual harassment have the right to sue their harassers and seek financial remedies, but most cases of sexual harassment were resolved less formally.

The constitution guarantees complete freedom in the way persons organize their private lives, including the basic right of couples and individuals to decide freely and responsibly the number, spacing, and timing of their children and to have the information and means to do so free from discrimination, coercion, and violence. Health clinics and local health NGOs were permitted to operate freely in disseminating information on family planning. There are no restrictions on the right to access contraceptives. Men and women received equal access to diagnosis and treatment for sexually transmitted infections, including HIV.

Women have the same legal rights as men, including rights under family law, property law, in the judicial system, in labor relations, and in social welfare protection. The federal government's Institute for the Equality of Men and Women, which is tasked with promoting gender equality, is authorized to initiate lawsuits if it finds that equality laws have been violated. Most of the complaints it received in 2008 were work-related, and most often concerned women whose employment contract was terminated because of pregnancy.

During the year the government continued implementing the 2007 Gender Mainstreaming Act. The law obliges the authorities to address gender aspects in planning policy, collecting data, drafting budgets, awarding contracts, and drafting reports.

Economic discrimination against women continued. During the year the Institute for the Equality of Men and Women released a survey which showed that there was an average gap of 11 percent in the gross wages paid to men and women. The gap was 27 percent for white-collar and 16 percent for blue-collar workers. The gap was less significant in the public sector, where female contract workers earned 7 percent less than their male colleagues, and female statutory civil servants earned 1 percent more than their male colleagues. Taking into account part-time work, the overall wage gap was 25 percent. The report showed that the main factors contributing to the gap were job classification, branch of employment, type of employment contract, and time actually worked. Through legislation and decrees, federal and regional authorities sought to increase the presence of women on the boards of public enterprises and government agencies. Data from the

European Professional Women's Network indicated that women filled 5.8 percent of the positions on boards of directors of the country's leading private companies.

#### Children

The government registered all live births immediately, and citizenship is conferred to the child through the parents' nationality.

There were reports of child abuse. In 2008 the federal police registered 3,971 cases of child abandonment, abuse, and neglect compared with 2,029 in 2007.

The NGO Child Focus reported that it handled 2,166 missing children and child abuse cases involving 2,388 children in 2008. There were 1,041 cases of runaways; half of the runaways returned home within 48 hours. Twenty-two cases concerned abduction by a third person. Child Focus handled 231 cases (involving 333 children) of abduction to another country.

The law provides for the protection of youth against sexual exploitation, abduction, and trafficking, and provides severe penalties for child pornography and possession of pedophilic materials. The penalties for producing and disseminating child pornography range from five to 15 years' imprisonment, and from one month to one year for possession of such material. The law permits the prosecution of residents who commit such crimes abroad and provides that criminals convicted of sexual abuse of children must receive specialized treatment before they can be paroled and must continue counseling and treatment after their release from prison. In 2008 the NGO Child Focus handled 280 sexual abuse cases and continued its Internet-based public awareness campaign, stopchildporno.be. The group received 1,421 reports of child pornography on the Internet and forwarded relevant cases to the specialized units of the federal police.

According to official figures, in 2008 the federal police investigated 397 child pornography cases, and international networks operating in several countries were dismantled with the help of Europol and Eurojust. In several court cases, judges handed down prison sentences for downloading child pornography.

In 2008, Child Focus, in conjunction with the King Baudouin Foundation, produced the first comprehensive study to document the growing number of children contacted via cellular telephone and Internet for sexual purposes and children responding to such requests. Child Focus overhauled its clicksaf.be Web site, which provided guidance to children, parents, and educators on the safe use of the Internet.

#### Trafficking in Persons

The law prohibits trafficking in persons for all purposes; however, there were reports of women, men, and girls trafficked to, through, and within the country for commercial sexual exploitation and labor.

According to the CEOCR and domestic NGOs that worked with trafficking victims, women and girls were trafficked primarily from Eastern Europe, sub-Saharan Africa, and Asia for sexual exploitation. Particularly prominent source countries were Bulgaria, Romania, Albania, Nigeria, China, and Turkey. Male victims were typically trafficked for exploitative labor in restaurants, bars, sweatshops, horticulture, fruit farms, construction sites, convenience stores, certain bakeries and butcher shops, and janitorial services. Prominent source countries for victims of labor exploitation were China, India, Brazil, and Bulgaria. Traffickers were principally organized criminal gangs.

The law criminalizes recruiting, transporting, transiting, sheltering, and passing to others the control over persons for the purpose of prostitution, child pornography, exploitation of poverty, economic exploitation, or organ transplant. The law also makes it illegal to force trafficked persons to commit crimes. Persons convicted of violating the antitrafficking law are subject to one to five years' imprisonment and may be fined between 2,750 and 275,000 euros (approximately \$3,930 to

\$393,000). Repeat offenses, offenses of an organized nature, and those with aggravated circumstances are subject to higher penalties. If the offender belongs to a criminal organization or if the trafficking results in manslaughter, the punishment is 15 to 20 years' imprisonment and fines ranging from 5,500 to 825,000 euros (\$7,870 to \$1,180,000).

The country's antitrafficking policy is implemented by the Interdepartmental Coordination Unit to Combat Human Trafficking and Smuggling, chaired by the justice minister. Its executive board is composed of representatives from the Criminal Policy Department of the Justice Ministry, the CEOCR, the Immigration Office, the federal police, and the ministries of state security and social welfare and employment.

In 2008 prosecutors handled 387 trafficking cases, including 202 economic exploitation and 141 sexual exploitation cases. In 2008 the federal judicial police identified 81 criminal organizations dealing with smuggling, 84 with sexual exploitation, and 37 with economic exploitation. The judicial police handled 356 sexual exploitation cases, making 99 arrests, and dealt with 206 economic exploitation cases, making 27 arrests. The laws allow authorities to grant residence to trafficking victims who cooperate with them. The prevailing protection system has the force of law and extends to unaccompanied minors and other categories of vulnerable victims.

The government has a plan for combating trafficking and smuggling that is aimed at improving data sharing between law enforcement agencies, combating child pornography more effectively, and tracking persons who exploit trafficking victims.

Trafficking victims who are foreign nationals have 45 days to decide whether to assist in the investigation of their traffickers and can qualify for a renewable three-month residency permit or a six-month permit, depending on the status of the judicial investigation. Victims can eventually obtain permanent residence when their traffickers are sentenced. Unaccompanied minors and victims willing to file a complaint can bypass the 45-day period and immediately apply for a three-month residency permit. In 2008 the Immigration Office awarded residence permits under the trafficking victim status program to 174 applicants, mostly victims of economic exploitation, including six underage victims.

The government continued to subsidize three specialized shelters providing assistance to victims of trafficking. NGOs continued to report excellent cooperation and coordination with law enforcement agencies. The shelters registered 495 victims in 2008. The three centers noted a significant increase in 2008 in the number of victims of economic exploitation and male victims.

The government data collection on human trafficking was slow. Trafficking victims were harder to identify as international gangs frequently rotated victims within the EU. Cases were also harder to prosecute as trafficking gangs became more sophisticated at stopping victims from testifying. Traffickers also allowed victims to keep some money that they had earned, making it more difficult to claim that they were forced to engage in prostitution. Trafficking gangs started to threaten the families of victims.

The Department of State's annual *Trafficking in Persons Report* can be found at [www.state.gov/q/tip](http://www.state.gov/q/tip).

#### Persons with Disabilities

The law provides for the protection of persons with physical and mental disabilities from discrimination in employment, education, access to health care, and other state services or other areas. In 2008 the CEOCR received 234 complaints regarding discrimination against persons with disabilities. Most were employment-related, and they concerned access to private and public buildings and services, including public transport, and access to banks, bars, and restaurants. While the government has mandated that public buildings erected after 1970 must be accessible to persons with disabilities, many older buildings were still inaccessible.

#### National/Racial/Ethnic Minorities

A survey released in November on discrimination and intolerance as perceived by ethnic minorities coming from the Northern Africa, Turkey, Sub-Saharan Africa and Eastern Europe showed that color of the skin and clothing related to Islam were the most important factors causing intolerance along with discrimination by Belgians, especially when seeking housing and employment.

In its 2008 annual report, the CEOCR stated that discrimination against members of the Muslim community, estimated at 450,000 persons, principally of Moroccan and Turkish origin, greatly exceeded that experienced by other immigrant communities. In 2008 the CEOCR, which investigates complaints of discrimination, racism, and hate instigation, handled 2,207 discrimination and racism complaints, a decrease from the previous year. Most complaints concerned nationality and ethnic descent (39.2 percent), physical handicaps (13.3 percent), and discrimination on the ground of religious and philosophical orientation (8.3 percent). Complaints related to ethnic descent, nationality, race, and skin color accounted for 57 percent of the complaints registered by the CEOCR. Places of work and the Internet were most often cited as the places where the alleged discriminatory acts occurred. Thirty-nine percent of the complaints received by the CEOCR were deemed to be justified. In 2008 the CEOCR initiated court cases in 2.5 percent of the registered complaints. Courts convicted a number of persons for inciting racial hatred, shouting abuse, denying the Holocaust, and using violence against asylum seekers. Judges convicted employers for discriminating on racial and physical grounds in hiring personnel. Landlords were convicted for discriminating against foreigners and persons with disabilities.

Data released by the Justice Ministry indicated that in 2008, 61 percent of the cases of alleged discrimination handled by the courts were dismissed.

#### Societal Abuses, Discrimination, and Acts of Violence Based on Sexual Orientation and Gender Identity

According to the CEOCR, 5.2 percent of the complaints it received in 2008 concerned discrimination based on sexual orientation. Most were work-related, and the center received several reports on violence against gays, lesbians, bisexuals, and transgender persons.

#### Other Societal Violence or Discrimination

In 2008 3.9 percent of the complaints received by the CEOCR involved discrimination based on health or medical conditions, including against persons with HIV/AIDS. Most of the complaints were related to work.

#### Section 7 Worker Rights

##### a. The Right of Association

The law provides workers the right to form and join independent unions of their choice without previous authorization or excessive requirements, and workers exercised this right in practice, with citizen and noncitizen workers enjoying the same rights. Works council elections are mandatory in enterprises employing over 100 employees, and safety and health committee elections are mandatory in companies employing more than 50 employees. Approximately 58 percent of private and public sector workers were members of labor unions. The law allows unions to conduct their activities without interference, and the government protected this right in practice. The law provides for the right to strike for all private and all public workers, except for the military. The International Trade Union Confederation noted in its annual survey of violations of trade union rights that, on occasion, multinational companies took legal action aimed at prohibiting certain forms of collective action, including strike pickets.

##### b. The Right to Organize and Bargain Collectively

The right to bargain collectively is recognized, and the government protected this right. The law prohibits antiunion discrimination and employer interference in union functions, and the government protected this right in practice. There were no reports of antiunion discrimination.

There are no export processing zones.

#### c. Prohibition of Forced or Compulsory Labor

The law prohibits forced or compulsory labor, including by children; however, there were reports that such practices occurred. Women, men, and children from Eastern Europe, sub-Saharan Africa, and Asia were trafficked to the country for commercial sexual exploitation and forced labor. Female victims, including children, worked as prostitutes in massage parlors, as escorts, and through the Internet. Male victims were forced to work in restaurants, bars, sweatshops, horticulture, fruit farms, and construction sites. Police and courts used antitrafficking legislation to combat economic exploitation. In its 2008 report on trafficking, the CEOCR noted several cases of debt bondage, with victims lacking freedom of movement as their documents were retained.

#### d. Prohibition of Child Labor and Minimum Age for Employment

Laws and government policy protect children from exploitation in the workplace, and the government generally enforced these laws. The minimum age of employment is 15. Persons between the ages of 15 and 18 can participate in part-time work and study programs and work full time during school vacations. The Ministry of Employment regulates industries that employ juvenile workers to ensure that labor laws are followed and occasionally grants waivers for children temporarily employed by modeling agencies and by the entertainment business. There is growing concern about children exploited by organized begging gangs in larger cities.

#### e. Acceptable Conditions of Work

The monthly national minimum wage for workers 21 years of age was 1,387.50 euros (approximately \$2,080) and increased to 1,440.70 euros (\$2,160) for workers 22 years of age with one year of service. When combined with extensive social benefits, this wage provided a decent standard of living for a worker and family.

The standard workday is eight hours, and the standard workweek is 38 hours. Departure from these norms can occur under the terms of a collective bargaining agreement, but work time may not exceed 11 hours per day and 50 hours per week. An 11-hour rest period is required between two work periods. Overtime is paid at a time-and-a-half premium Monday through Saturday and at double time on Sundays. The Ministry of Labor and the labor courts effectively enforced these laws and regulations.

Workers have the right to remove themselves from situations that endanger their safety or health without jeopardy to their continued employment, and workers exercised this right in practice. In general regulations were enforced effectively by the Employment and Labor Relations Federal Public Service.