

In 2006, the main human rights concerns in Belgium were racism and xenophobia; the treatment of migrants, asylum seekers and refugees; ill-treatment and other police misconduct; and religious discrimination.

Ill-treatment and other police misconduct

The Council of Europe's Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) published a report on its visit to Belgium conducted in April 2005. The CPT reported that though no allegations of ill-treatment against the police were raised during its visit to the country in 2005, the lack of fundamental safeguards against ill-treatment in police custody was a source of concern. The CPT recommended, among other things, to give high priority to the adoption of relevant legislation, especially to ensure the detainees' right of access to a lawyer.¹ As regards deportation of foreign nationals by air, the CPT welcomed the absolute prohibition of techniques that may cause postural asphyxia.

Belgian law provided for a complicated procedure for the investigation of racially motivated misconduct by the police. Belgium's Permanent Commission for Control of Police Services ("Comité P"), which was established by a law adopted in 1991, oversaw the functioning of police and law enforcement structures. The 2003 Anti-Discrimination Law, which *inter alia* amended the 1999 law concerning the disciplinary status of law enforcement authorities, created a special investigation procedure. The Center for Equal Opportunities and Fight against Racism ("Centre pour l'Égalité des Chances et la Lutte contre le Racisme," CECLR) was vested with the right to bring cases of discrimination to the attention of "Comité P" or the general inspection of the services of federal police and local police. Thereafter, the "Comité P"

chairman or the general inspector was able to initiate an inquiry.

Asylum seekers

Asylum reform

In May 2006, the bill on asylum reform was introduced for discussions at the Chamber of Representatives.² The bill was not adopted by the year's end.

The purpose of asylum reform is to simplify and accelerate the asylum procedure. Under the procedure valid in 2006, the first decision on an asylum application was taken by the Aliens Office on the basis of formal requirements (such as whether the applicant had transited through a "safe third country") and substantive requirements (such as whether the claim was "manifestly unfounded"). The General Commissariat for Refugees and Stateless Persons (CGRA) functioned as the second instance, where the application was subject to a thorough examination. Decisions could be appealed to the Permanent Refugee Appeals Commission ("Commission Permanente de Recours des Réfugiés") and the State Council.

The draft new procedure introduces several changes to the asylum process. First, the Aliens Office would be stripped of its decision-making functions in the asylum process. Instead, the General Commissariat for Refugees and Stateless Persons would be entrusted with the first-instance examination of applications. Second, the new procedure would include a specific council ("Conseil du contentieux des étrangers," CCE) as an independent judicial institution made up of 32 magistrates to examine applications in the second instance. According to the new rules, the decision-making process would last one year maximum, compared to a waiting period of up to three or four years under the old procedure - an expected improvement lauded by the UN High Commissioner for Refugees. Third, the reform would introduce

subsidiary protection in cases that do not fall under the Geneva Convention. Those granted this status would enjoy rights similar to those of recognized refugees with the only exception that their right to stay in the country would have to be extended each year for the duration of five years.

With regard to family reunification, the reform would bring about some new restrictions. The minimum age for a person settled in Belgium to apply to be joined by his/her spouse would be increased from 18 to 21 years, and persons requesting such reunification would have to prove that they have sufficient resources to support the new family member.

Unaccompanied minors

The detention of accompanied and unaccompanied minors remained a pressing human rights problem. According to the statistics published by the Aliens' Office, 258 unaccompanied minors asked for asylum in the first seven months of the year.³ The CECLR issued several statements calling on Belgian authorities to revise the system of holding minors in closed centers.⁴

Racism, intolerance and xenophobia

Belgium has ratified the International Covenant on Civil and Political Rights and the International Convention on the Elimination of All Forms of Racial Discrimination, but has yet to ratify Protocol No. 12 to the European Convention for Human Rights (ECHR), which establishes general prohibition against discrimination.

A new Anti-Discrimination Act adopted in February 2003 provides for legal protection against racial discrimination as well as discrimination based on sexual orientation, disability, state of health, religious and philosophical beliefs and age.⁵ The new act complemented the 1981 Anti-Racism Act, which was limited by several deficiencies, in particular its narrow definition of dis-

crimination as a criminal act, with the burden of proof placed on the victim.

Since 1993, the CECLR has been entrusted with overseeing the implementation of the Anti-Racism Act. With the adoption of the Anti-Discrimination Act, the center was empowered to deal with the expanded scope of grounds of discrimination as prescribed by the new law.

Mechanisms to register crimes committed on grounds of racism and discrimination were long overdue. In March 2006, the Ministry of Justice introduced such a mechanism enabling it to identify offences of racist, xenophobic or homophobic nature.

In February 2006, the UN Working group of Experts on People of African Descent submitted to the UN human rights bodies the findings and recommendations of its visit to Belgium in June 2005. After hearing testimonies from people of African descent, the working group praised the efforts of the Belgian authorities in translating the provisions of the Durban Declaration and Programme of Action into the national legislative framework but noted that employment and housing remain areas in which most complaints of discrimination were recorded and where people of African origin felt most disadvantaged.

The use of racist and xenophobic arguments in political discourse continued to be an issue through the year.

◆ On 18 April, the leader of the Front National Party and member of the Brussels Regional Parliament Daniel Féret, was sentenced to 250 hours of community service because of incitement to racial hatred. He was also barred from running for political office for ten years. The CECLR, the League for Human Rights and the Movement against Racism, Anti-Semitism and Xenophobia ("Mouvement contre le Racisme, l'Anti-Sémitisme et la Xénophobie," MRAX) had, as civil parties, initiated the court case because of the racist character of the party's propaganda and parts of its political

program.⁶ On 4 October, the Court of Cassation rejected Féret's appeal.

◆ On 7 June, the Brussels Correctional Tribunal condemned the leaders of a political party called Movement for the Nation, originating from the former extremist movement Assaut. They were charged for incitement to racial hatred and discrimination through distribution of pamphlets and brochures in different areas of Brussels and the region of Wallonia in 2001. The CECLR acted as civil party under the 1981 Anti-Racism Act. The tribunal decided that though the right to freedom of expression and opinion was guaranteed under the ECHR, it was not absolute and could not be used to propagate ideas of intolerance and discrimination. It handed down 6 to 10-month suspended sentences.⁷

Public funding of political parties was regulated by the 1989 Law on Financing of Political Parties and its 1999 amendment, which stated that public funding may be limited or terminated if political parties manifest "hostility towards human rights." A law was adopted in 2005 providing for a mechanism in which a complaint about a particular political party can be adopted and submitted to the Council of State by one third of the members of the council's Committee for Financial Control of Political Parties. The latter, which has to consider a complaint within six months, can subsequently decide to withdraw funding to a political party for a period of three to twelve months.

A 1995 law provided for the punishment of acts of denying, belittling, justify-

ing or approving the genocide committed by the Nazis.

Religious intolerance and discrimination

The system of relationships between the state and religions in Belgium is historically rooted in the principle of recognition and non-recognition of religions. Also in 2006, this system of hierarchy of religions and beliefs generated various forms of institutional discrimination. The state only financed recognized religious communities, which received state subsidies provided by all taxpayers regardless of their religious or other convictions.

Non-recognized faiths were in a discriminatory position in many respects. For example, they were not eligible for state subsidies, did not enjoy tax privileges, and their chaplains could not be officially accredited in public institutions such as prisons, hospitals, and the armed forces. They were not allowed to teach their religion in public schools and had limited access to public media. Foreign missionaries and preachers of non-recognized religious (e.g. Adventists, Pentecostals and Mormons) faced problems in getting work permits for voluntary religious work, or were sometimes denied access to Belgian territory.

Many minority religions were stigmatized as harmful organizations especially by two state institutions created in 1998 to identify harmful new religious movements and cults: a sect observatory (CIAOSN/IAC-SSO) and an inter-ministerial coordination agency to fight them.

SOURCES FOR FURTHER INFORMATION:

◆ Human Rights Without Frontiers, at www.hrwf.net

Other organizations:

- ◆ The League for Human Rights ("Ligue des droits de l'homme," LDH), at www.liguedh.be
- ◆ European Centre for Missing and Sexually Exploited Children, at www.childfocus.org
- ◆ Movement against Racism, Anti-Semitism and Xenophobia ("Mouvement contre le racisme, l'antisémitisme et la xénophobie," MRAX), at www.mrax.be
- ◆ The Center for Equal Opportunities and Fight against Racism ("Centre pour l'égalité des chances et la lutte contre le racisme," CECLR), at www.antiracisme.be
- ◆ Pax Christi, www.paxchristiwb.be
- ◆ Justice et Paix, www.justicepaix.be
- ◆ Payoke (on trafficking in women), www.payoke.be

Endnotes

- ¹ CPT, *Rapport au Gouvernement de la Belgique relatif à la visite effectuée en Belgique par le Comité européen pour la prévention de la torture et des peines ou traitements inhumains ou dégradants (CPT) du 18 au 27 avril 2005*, at www.cpt.coe.int/documents/bel/2006-15-inf-fra.htm.
- ² Draft Law to amend the Law of 15 December 1980 on the access to the territory, the stay, the settlement and removal of foreigners, dated 10 May 2006, Doc. 51K2478, at www.lachambre.be.
- ³ Office des Etrangers, statistics at www.dofi.fgov.be/fr/1024/frame.htm.
- ⁴ CECLR, "Détention des familles en centres fermés : de l'exception à la règle?" 27 January 2006, and "Mineurs et centres fermés: des adaptations c'est bien, des alternatives c'est mieux," 7 April 2006, at www.diversite.be.
- ⁵ Act of 20 January 2003 reinforcing the legislation against racism published in *Moniteur Belge*, 12 February 2003.
- ⁶ CECLR, "Daniel Féret condamné pour racisme," 18 April 2006, at www.diversite.be.
- ⁷ CECLR, "Un nouveau jugement contre l'incitation à la haine raciale," 7 June 2006, at www.diversite.be.