

BELGIUM 2017 HUMAN RIGHTS REPORT

EXECUTIVE SUMMARY

The Kingdom of Belgium is a parliamentary democracy with a limited constitutional monarchy. 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 Federal Council of Ministers, headed by the prime minister, remains in office as long as it retains the confidence of the lower house (Chamber of Representatives) of the bicameral parliament. Observers considered federal parliamentary elections held in 2014 to be free and fair.

Civilian authorities maintained effective control over the security forces.

The most significant human rights issues included some physical attacks motivated by anti-Semitism and anti-Muslim sentiment; authorities generally investigated, and where appropriate prosecuted, such cases.

Authorities actively investigated, prosecuted, and punished officials who committed abuses, whether in the security services or elsewhere in government.

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

a. Arbitrary Deprivation of Life and Other Unlawful or Politically Motivated Killings

There were no reports that the government or its agents committed arbitrary or unlawful killings.

b. Disappearance

There were no reports of disappearances by or on behalf of government authorities.

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

The constitution and/or law prohibit such practices, and there were no reports that government officials employed them.

Prison and Detention Center Conditions

Prison and detention center conditions met most international standards.

Physical Conditions: Prison overcrowding remained a problem, despite a steady decrease in the number of inmates, the establishment of new prisons during the year, and the increased use of electronic home monitoring. According to the government's annual report on prisons for 2016, an average of 10,618.8 inmates were held in prisons that had an average capacity of 9,686.8 inmates.

According to the media and prison monitors, conditions in a number of prisons deteriorated sharply during a strike by prison guards between April and June 2016. In May 2016 a delegation from the Council of Europe's Committee for the Prevention of Torture (CPT) visited prisons where a large number of staff were absent due to the strike, requiring the mobilization of police and the armed forces to manage the situation. In November 2016 the committee released its report on the visit, terming conditions during the strike "intolerable" and noting that virtually all staff at the prisons visited were absent from their posts and that volunteer employees and reassigned staff assisted by police officers and others were not able to provide for acceptable conditions of detention.

On July 13, the CPT formally adopted and released a public statement that noted that for 12 years the CPT had "consistently expressed its deep concern regarding the serious consequences" that can result from strike actions by prison staff in the country. These consequences included continuous confinement of inmates in cells in conditions deemed intolerable, serious disruption in the distribution of meals, dramatic deterioration of personal hygiene conditions and conditions in cells, frequent cancellation of outdoor exercise, serious restrictions on inmate access to health care, and a virtual halt to their contacts with the outside world, including with lawyers. The statement noted that during the 2016 strike, inmates had been "placed in conditions that could amount to inhuman or degrading treatment or lead to the aggravation of conditions already held to be incompatible with... the European Convention on Human Rights."

Some older facilities experienced maintenance problems that contributed to poor detention conditions. Lengthy wait times for inmates to see medical practitioners were sometimes reported.

Independent Monitoring: The federal mediator acts as an ombudsman, allowing any citizen to address problems with prison administration. The federal mediator

is an independent entity appointed by the Chamber of Representatives to investigate and resolve problems between citizens and public institutions. Authorities permitted the CPT to visit prisons and detention centers.

d. Arbitrary Arrest or Detention

The law prohibits arbitrary arrest and detention and provides for the right of any person to challenge the lawfulness of his/her arrest or detention in court, and the government generally observed these requirements.

Role of the Police and Security Apparatus

The federal police are responsible for internal security and nationwide law and order, including migration and border enforcement, and report to the ministers of interior and justice. Civilian authorities maintained effective control over the federal and local police and the armed forces, and the government has effective mechanisms to investigate and punish abuse and corruption. There were no reports of impunity involving the security forces during the year.

Arrest Procedures and Treatment of Detainees

Under the constitution, an individual may be arrested only while committing a crime or by a judge's order carried out within 48 hours. The law provides detainees the right to prompt judicial determination of the legality of their detention, and authorities generally respected this right. Authorities promptly informed detainees of charges against them and provided access to an attorney (at public expense if necessary). Alternatives to incarceration included conditional release, community service, probation, and electronic monitoring. There was a functioning bail system, and a suspect could be released by meeting other obligations or conditions as determined by the judge.

e. Denial of Fair Public Trial

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

Trial Procedures

The constitution provides for the right to a fair and public trial, and an independent judiciary generally enforced this right.

Defendants are presumed innocent and have the right to be informed promptly and in detail of the charges against them; to a fair, timely, and public trial; to be present at their trial; to communicate with an attorney of their choice (or have one provided at public expense if unable to pay); to have adequate time and facilities to prepare defense; to have free assistance of an interpreter (for any defendant who cannot understand or speak the language used in court); to confront prosecution or plaintiff witnesses and present one's own witnesses and evidence; to not be compelled to testify or confess guilt; and to appeal. The law extends these rights to all citizens.

Political Prisoners and Detainees

There were no reports of political prisoners or detainees.

Civil Judicial Procedures and Remedies

Individuals and organizations could seek civil remedies for human rights violations through domestic courts and appeal national-level court decisions to the European Court of Human Rights.

Property Restitution

Holocaust-era restitution is no longer a significant issue in the country. The government has laws and/or mechanisms in place, and nongovernmental organizations (NGOs) and advocacy groups, including the Belgian Jewish community, reported that the government has resolved virtually all Holocaust-era claims where ownership can be traced, including for foreign citizens.

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

The constitution and legal code prohibit such actions, and there were no reports that the government failed to respect these prohibitions.

Section 2. Respect for Civil Liberties, Including:

a. Freedom of Expression, Including for the Press

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

Freedom of Expression: Holocaust denial, defamation, sexist remarks and attitudes that target a specific individual, and incitement to hatred are criminal offenses punishable by a minimum of eight days (for Holocaust denial) or one month (incitement to hatred and sexist remarks/attitudes) and up to one year in prison and fines, plus a possible revocation of the right to vote or run for public office. If the incitement to hatred was based on racism or xenophobia, the case would be tried in the regular courts. If, however, the incitement stemmed from other motives, including homophobia or religious bias, a longer and more costly trial by jury generally would be required. The government prosecuted and courts convicted persons under these laws.

In January an appellate court upheld the 2015 Liege court sentencing of French stand-up comedian Dieudonne to two months of prison and a 9,000 euro (\$10,800) fine for incitement to hatred, anti-Semitic and discriminatory statements, and Holocaust denial. Dieudonne made the statements during a 2012 one-man show he held in Liege.

In September an appellate court sentenced former federal representative Laurent Louis to a six-month suspended prison sentence and an 18,000 euro (\$21,600) fine for Holocaust denial statements he made on his blog in 2014. Louis was also sentenced to visit one concentration camp each year for the next five years and write up a summary of the visit on his blog. Louis was first sentenced in 2015.

Press and Media Freedom: The prohibition of Holocaust denial, defamation, sexist remarks and attitudes that target a specific individual, and incitement to hatred apply to the print and broadcast media, the publication of books, and online newspapers and journals.

Internet Freedom

The government did not restrict or disrupt access to the internet or censor online content, and there were no credible reports that the government monitored private online communications without appropriate legal authority.

According to estimates compiled by the International Telecommunication Union, approximately 86 percent of the population used the internet in 2016.

Academic Freedom and Cultural Events

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

b. Freedoms of Peaceful Assembly and Association

The constitution and law provide for the freedoms of peaceful assembly and association, and the government generally respected these rights.

c. Freedom of Religion

See the Department of State's *International Religious Freedom Report* at www.state.gov/religiousfreedomreport/.

d. Freedom of Movement

The constitution and the law provide for freedom of internal movement, foreign travel, emigration, and repatriation, and the government generally respected these rights.

The government cooperated with the Office of the UN High Commissioner for Refugees (UNHCR) and other humanitarian organizations in providing protection and assistance to refugees, asylum seekers, stateless persons, or other persons of concern.

Protection of Refugees

Access to Asylum: The law provides for the granting of asylum or refugee status, and the government has established a system for providing protection to refugees, including specific subsidiary protection that goes beyond asylum criteria established by the 1951 Convention relating to the Treatment of Refugees and its 1967 protocol. Effective July 2016 refugee status and residence permits are limited to five years and become indefinite if extended.

See section 6, Children, for information on unaccompanied minors who filed asylum claims.

Safe Country of Origin/Transit: The country denied asylum to asylum seekers who arrived from a safe country of origin or transit, pursuant to the EU's Dublin III Regulation.

Durable Solutions: The country accepted refugees through UNHCR, including persons located in Italy and Greece, under the EU Emergency Relocation Mechanism. The country also conducted a voluntary return program for migrants in cooperation with the International Organization for Migration.

Temporary Protection: The government also provided temporary protection to individuals who do not satisfy the legal criteria for refugee status but who cannot return to their country of origin due to a real risk of serious harm. Under EU guidelines, individuals granted "subsidiary protection" are entitled to temporary residence permits, travel documents, access to employment, and equal access to health care and housing. In 2016 authorities granted subsidiary protection to 3,281 individuals. In the first half of the year, authorities granted protection to 1,636 individuals.

Stateless Persons

According to UNHCR, by mid-2016 there were 2,027 persons in the country who fell under UNHCR's statelessness mandate. Belgium does not have a significant number of residents who are stateless, de jure or de facto, and does not contribute to statelessness, as the legal framework for stripping an individual of his or her Belgian citizenship does not exist (except in cases of dual citizenship with another country).

To be recognized as stateless, a requestor must go through legal proceedings and acquire a ruling by court on the status of his or her statelessness. The requestor may appeal the court's ruling. A recognition of statelessness does not automatically afford a stateless person resident status in the country. Stateless persons may apply for Belgian nationality after meeting the requirements legal residency.

Section 3. Freedom to Participate in the Political Process

The constitution provides citizens the ability to choose their government in free and fair periodic elections held by secret ballot and based on universal and equal suffrage. Voting in all elections is compulsory; failure to vote is punishable by a nominal fine.

Elections and Political Participation

Recent Elections: Federal elections held in 2014 were considered free and fair.

Participation of Women and Minorities: No laws limit participation of women or members of minorities in the political process, and they did participate.

Section 4. Corruption and Lack of Transparency in Government

The law provides criminal penalties for corruption by officials, and the government generally implemented the law effectively. There were isolated reports of government corruption.

Corruption: During the year there were notable scandals (such as Publifin, Kazakhgate, Samusocial, Telenet, and others) involving allegations of corruption by politicians. While some scandals were under investigation for potential illegal activity, others involved legal actions that the public deemed unethical.

Financial Disclosure: The law does not require elected officials to disclose their income or revenue, but they must report if they serve on any board of directors, regardless of whether in a paid or unpaid capacity. Officials in nonelective offices are held to the same standard. Sanctions for noncompliance are infrequent but have been used in the past when triggered by public outrage.

Section 5. Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Abuses of Human Rights

A variety of domestic and international human rights groups operated without government restriction, investigating and publishing their findings on human rights cases. Government officials generally were cooperative and responsive to their views.

Government Human Rights Bodies: Federal and regional government ombudsmen monitored and published reports on the workings of agencies under their respective jurisdictions. The Interfederal Center for Equal Opportunities (Unia) is responsible for promoting equal opportunity and combatting discrimination and exclusion at any level (federal, regional, provincial, or local). The center enjoyed a high level of public trust, was independent in its functioning, and was well financed by the government.

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

Women

Rape and Domestic Violence: Rape of men or women, including spousal rape, is illegal, and the government prosecuted such cases. A convicted rapist may receive 10 to 30 years in prison.

The law prohibits domestic violence and provides for fines and incarceration. Legal sanctions for domestic violence are based on the sanctions for physical violence against a third person; the latter range from eight days to 20 years in prison. In cases of domestic violence, these sanctions are doubled. A number of government-supported shelters and telephone helplines were available across the country for victims of domestic abuse.

Female Genital Mutilation/Cutting (FGM/C): The law prohibits FGM/C for women and girls. Reported cases were primarily filed by recent immigrants or asylum seekers. Criminal sanctions apply to persons convicted of FGM/C.

Sexual Harassment: The law aims to prevent violence and harassment at work, obliging companies to set up internal procedures to handle employee complaints. Sexist remarks and attitudes targeting a specific individual are illegal; fines for violations range from 50 to 1,000 euros (\$60 to \$1,200). The government generally enforced antiharassment laws. Politicians and organizations such as the Federal Institute for the Equality of Men and Women worked to raise awareness of the problem.

Coercion in Population Control: There were no reports of coerced abortion, involuntary sterilization, or other coercive population control methods. Estimates on maternal mortality and contraceptive prevalence are available at: www.who.int/reproductivehealth/publications/monitoring/maternal-mortality-2015/en/.

Discrimination: Women have the same legal rights as men. The law requires equal pay for equal work and prohibits discrimination on the grounds of gender, pregnancy, or motherhood as well as in access to goods, services, social welfare, and health care.

Children

Birth Registration: The government registered all live births immediately. Citizenship is conferred on a child through a parent's (or the parents') Belgian citizenship.

Child Abuse: The government continued to prosecute cases of child abuse and punish those convicted.

Early and Forced Marriage: The law provides that both (consenting) partners must be at least 18 to marry.

Sexual Exploitation of Children: The law prohibits sexual exploitation, abduction, and trafficking and includes severe penalties for child pornography and possession of pedophilic materials. Authorities enforced the law. The penalties for producing and disseminating child pornography range up to 15 years' imprisonment and up to one year in prison for possessing such material. Belgian girls and foreign children were subjected to sex trafficking within the country.

The minimum age for consensual sex is 16. Statutory rape carries penalties of imprisonment for up to 30 years.

Displaced Children: Authorities provided adequate housing and services to unaccompanied minors who filed asylum claims as minors.

International Child Abductions: The country is a party to the 1980 Hague Convention on the Civil Aspects of International Child Abduction. See the Department of State's *Annual Report on International Parental Child Abduction* at travel.state.gov/content/childabduction/en/legal/compliance.html.

Anti-Semitism

The country's Jewish community was estimated at 40,000 persons. There were 109 reports of anti-Semitic acts in 2016, a steep increase from the 57 notifications in 2015. Anti-Semitic acts included some physical attacks but consisted mainly of verbal harassment of Jews and vandalism of Jewish property. Authorities generally investigated, and where appropriate prosecuted, such cases. Online hate speech continued to be a problem. Jewish groups reported anti-Semitic statements and attitudes in the media and in schools, especially but not exclusively related to the government of Israel and the Holocaust.

The law prohibits public statements that incite national, racial, or religious hatred, including denial of the Holocaust. The government prosecuted and convicted individuals under this law (see section 2.a.). The government also provided enhanced security at Jewish schools and places of worship.

Trafficking in Persons

See the Department of State's *Trafficking in Persons Report* at www.state.gov/j/tip/rls/tiprpt/.

Persons with Disabilities

The law prohibits discrimination against persons with physical, sensory, intellectual, and mental disabilities. The government generally enforced the provisions.

While the government mandated that public buildings erected after 1970 must be accessible to persons with disabilities, many older buildings were still inaccessible. Although the law requires that prison inmates with disabilities receive adequate treatment in separate, appropriate facilities, there were still many such inmates incarcerated in inadequate facilities.

National/Racial/Ethnic Minorities

Ethnic minorities continued to experience discrimination in access to housing, education, and employment. Discriminatory acts primarily took place over the internet, at work, or when individuals attempted to gain access to various public and private services, such as banking and restaurants.

Discrimination against women who wore a headscarf was common in the labor market. The law also prohibits the wearing of a full-face veil (niqab) in public places. Authorities may punish persons who discriminate on the basis of ethnic origin with a fine of up to 137.50 euros (\$165) and a jail sentence of up to seven days. There were reports of discrimination against persons of African and Middle Eastern ancestry. Government efforts to address such problems included internal training of officials and police officers and enforcement of laws prohibiting such discrimination.

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

The country has a well developed legal structure for the protection of LGBTI rights, which are included in the country's antidiscrimination laws. Despite some progress, the underreporting of crimes against the LGBTI community remained a problem.

LGBTI persons from immigrant communities reported social discrimination within those communities. The government supported NGOs working to overcome the problem.

The law provides adequate protections for transgender persons. On May 24, the Federal House approved a law removing the requirement for persons to undergo gender reassignment surgery before they are allowed to change their gender legally. Under the new law, an individual who is at least 16 may make an official statement regarding their gender to officer of the civil status registry, who would notify the general prosecutor. Absent objection from the Office of the General Prosecutor, the person's birth certificate would be amended within three months.

During the year the government, in cooperation with the regional entities, implemented an antihomophobia action plan. The plan requires government entities to conduct awareness campaigns to combat homophobic stereotypes in schools, youth movements, places of work, and the sports community.

Other Societal Violence or Discrimination

In the aftermath of the 2015 terrorist attacks in Paris and the March 2016 bombing attacks in Brussels, there was an upsurge in anti-Islamic incidents across the country, including demonstrations and attempted demonstrations against Islam in Brussels, Ghent, and Antwerp that were attended by hundreds of protesters. There were reports of individual cases of violence directed against Muslims.

Restrictions on Islamic clothing in public and private sector employment, schools, and public spaces affected Muslim women in particular.

Unia received complaints of discrimination based on physical characteristics, political orientation, social origin, or status.

Section 7. Worker Rights

a. Freedom of Association and the Right to Collective Bargaining

For companies with more than 50 employees, the law provides workers the right to form and join independent unions of their choice without previous authorization or excessive requirements, conduct legal strikes, and bargain collectively. Workers exercised these rights, and citizen and noncitizen workers enjoyed the same rights. Work council elections are mandatory in enterprises employing more than 100 employees, and safety and health committee elections are mandatory in companies employing more than 50 employees. The elections took place in May 2016 without incident. Employers sometimes used judicial recourse against associations attempting to prevent workers who did not want to strike from entering the employer's premises.

The law provides for the right to strike for all public and private sector workers except the military. The law prohibits antiunion discrimination and employer interference in union functions, and the government protected this right. Trade union representatives cannot be fired for performing their duties and are protected against being fined by their employers; they are also entitled to regular severance payments.

The government generally enforced applicable laws. Resources, inspections, and remediation were adequate. Penalties were generally not sufficient to deter violations as employers often paid fines rather than reinstate workers fired for union activity. At the same time, fines on workers for strike or collective bargaining actions often resulted in breaking strike movements. Administrative or judicial procedures related to trade unions were not longer than other court cases.

Freedom of association and the right to bargain collectively were inconsistently respected by employers. Worker organizations were generally free to function outside of government control. Unions complained that judicial intervention in collective disputes undermined collective bargaining rights.

b. Prohibition of Forced or Compulsory Labor

The law prohibits all forms of forced or compulsory labor, but such practices occurred. The government effectively enforced the law; resources, inspections, and remediation efforts were adequate. Legal penalties include a maximum prison sentence of 20 years and were sufficient to deter violations.

Forced and compulsory labor included male victims forced to work in restaurants, bars, sweatshops, agriculture, construction, cleaning, and retail sites. Foreign

victims were subjected to forced domestic service. Forced begging continued, particularly in the Romani community.

Also see the Department of State's *Trafficking in Persons Report* at www.state.gov/j/tip/rls/tiprpt/.

c. Prohibition of Child Labor and Minimum Age for Employment

The minimum age of employment is 15. Persons between the ages of 15 and 18 may participate in part-time work/study programs and work full time during school vacations. The Ministry of Employment regulated industries that employ juvenile workers to ensure that labor laws were followed; it occasionally granted waivers for children temporarily employed by modeling agencies and in the entertainment business. Waivers were granted on a short-term basis and for a clearly defined performance or purpose that had to be listed in the law as an acceptable activity. The law clearly defines, according to the age of the child, the amount of time that may be worked daily and the frequency of performance. A child's earnings must be paid to a bank account under the name of the child, and the money is inaccessible until the child reaches 18 years of age.

There are laws and policies to protect children from exploitation in the workplace. The government generally enforced these laws with adequate resources, inspections, and penalties, although such practices reportedly occurred mainly in restaurants. Persons found in violation of child labor laws could face a prison sentence ranging from six months to three years, as well as administrative fines.

d. Discrimination With Respect to Employment and Occupation

Labor laws and regulations related to employment or occupation prohibit discrimination based on race, sex, gender, disability, language, sexual orientation and/or gender identity, HIV-positive status or other communicable diseases, or social status. The government effectively enforced these laws and regulations. The law continued to permit companies to prohibit outward displays of religious affiliation, including headscarves (see section 6).

Employers discriminated in employment and occupation against women, persons with disabilities, and members of certain minorities as well as against internal and foreign migrant workers. The government took legal action based on antidiscrimination laws. The Interfederal Center for Equal Opportunities (Unia) also facilitated arbitration or other settlements in some cases of discrimination.

Such settlements could involve monetary payments, community service, or other demands imposed on the offender.

The Employment and Labor Relations Federal Public Service generally enforced regulations effectively. Trade unions or media sometimes escalated cases, and Unia often took a position or acted as a go-between to find solutions or to support alleged victims in the courts.

The Federal Institute for the Equality of Men and Women is responsible for promoting gender equality and may initiate lawsuits if it discovers violations of equality laws. Most complaints received during the year were work-related and most concerned the termination of employment contracts due to pregnancy. Economic discrimination against women continued. In 2016 the institute released a survey (based on 2014 data) indicating that women were paid at an hourly rate that was 7.6 percent less than that paid their male colleagues. This represented an annual gap of 20.6 percent, taking into account part-time work. The law requires that one-third of the board members of publicly traded companies, but not private ones, be women.

The law requires companies with at least 50 employees to provide a clear overview of their compensation plans, a detailed breakdown by gender of their wages and fringe benefits, a gender-neutral classification of functions, and the possibility of appointing a mediator to address and follow up on gender-related problems.

e. Acceptable Conditions of Work

There is a monthly national minimum wage, and it is higher than the official estimate for poverty income level.

The standard workweek is 38 hours, and workers are entitled to four weeks of annual leave. Departure from these norms can occur under a collective bargaining agreement, but work may not exceed 11 hours per day or 50 hours per week. An 11-hour rest period is required between 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. The law forbids or limits excessive overtime. Without specific authorization, an employee may not work more than 65 hours of overtime during any one quarter.

The Employment and Labor Relations Federal Public Service generally enforced regulations effectively. Inspectors from both the Ministry of Labor and the Ministry of Social Security enforced labor regulations. These ministries jointly worked to ensure that standards were effectively enforced in all sectors, including the informal sector, and that wages and working conditions were consistent with collective bargaining agreements. Wage, overtime, and occupational safety violations were most common in the restaurant, construction, and logistics industries.

A specialized governmental department created to fight the informal economy conducted 11,988 investigations in 2016, mainly in the construction, restaurant/hotel, and cleaning sectors. Authorities may fine employers for poor working conditions but may also treat them as cases of trafficking in persons.

Workers may remove themselves from situations that endanger health or safety without jeopardy to their employment. The Employment and Labor Relations Federal Public Service protected employees in this situation.