

2001 Annual Report on Human Rights in Belgium

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Intolerance, xenophobia, racial discrimination and hate speech

Belgium has ratified the International Convention on the Elimination of All Forms of Racial Discrimination, and the ICCPR, Article 20(2) of which forbids any incitement to national, racial or religious hatred.

Further, in 1981 Belgium adopted a separate law, known as the Moureaux Law, aimed at cracking down on acts inspired by racism or xenophobia. In practice, the application of the Anti-Racism law is limited by several deficiencies, in particular the difficulty of providing evidence of racially-motivated acts in a criminal case. To rectify this shortcoming, it is proposed to have a general anti-discrimination law consisting of a civil law and criminal law part. That would provide for a civil procedure under which claimants would be in a position to have their damages redressed and compensated in cases of discrimination on the basis of age, religion, sexual orientation, handicap. Though expected to be finalised already in 2001, the law is still debated in the Senate with no date set for its adoption.

The implementation of the provisions of the Anti-Racism Law is entrusted to the *Center for equality of opportunities and fight against racism*, established in 1993. In 2001, the Center has acted as a civil party in a number of cases within a wide-ranging scope, involving mainly trafficking in human beings, physical aggression motivated by racism, discrimination in housing, employment, education, and access to public places.

- The case of the company ADECCO was the most conspicuous manifestation of racial discrimination at work place in 2001. On 22 February, at request by the *Center for equality of opportunities and fight against racism* the federal police searched the computer lists of the company to find out proofs that the abbreviation BBB (standing for white Belgian) has been used in its files. The audit stated that the abbreviation has been used in few of the Brussels offices of the company but no other proofs as to the existence of systematic policies of

discrimination have been found. At the same time, however, the *Center for equality of opportunities and fight against racism* has registered the disturbing fact that “only a small number of the company’s personnel knew that distinction on grounds of ethnicity is discriminatory and punishable”. The audit on the ADECCO case and its findings have further provoked discussions on the need to reinforce the already existing Agreement of 7 May 1996 concerning the code of conduct directed at prevention of racial discrimination at work place and to advance the work of a commission made up of representatives of industries and members of the Center in examining concrete cases.

Another relevant legislative act is the law of 1989 regulating the financing of political parties, which was further amended in 1999 by adding Article 15, which provided for limitation or cessation of donations to political parties hostile to human rights and freedoms. On 9 February 2001, the Council of Ministers adopted a decree for application of the 1989 law allowing the expropriation of public donations to parties “manifesting hostility towards human rights”.

- In 2001, the Vlaams Blok case got a first-instance judgement, which is in appeal. In October 2000, the *Center for equality of opportunities and fight against racism* and the *League for Human Rights* took three associations to court on charges of collaborating and providing help to the Vlaams Blok (an extreme right political party who received 30 percent of the votes in major Flemish cities at the 2000 municipal elections in Belgium). The case is viewed as an important way of triggering further political debates on the behaviour of political parties and their associate organizations as the plaintiffs, i.e. the Center and the *League for Human Rights*, are committed to proving that racial discrimination underlies the Vlaams Blok political doctrine. The charges have been invoked on the basis of the party’s slogan “Notre peuple d’abord” (Our people first) and its publications inciting towards segregation and racial discrimination. In 2001, the first-instance court decided that the case falls within the scope of political offences and as such has to be judged by people’s jury. By failing to treat the case as a press-committed act, the first-instance judgement precludes the possibility of invoking the 7 May 1999 amendment of Article 150 of the Belgian Constitution, which is considered an important evolution of the 1981 Anti-Racism Law. Under the amendment, all press-committed crimes motivated by racism can be taken to a penal criminal court without jury, thus avoiding the more complicated procedure of a convening a people’s jury. This provision does not apply to racism-motivated crimes committed by political parties.

In 2001, there were no convictions under the 1995 Law against Negationism. The decision of the Flemish Minister of Culture, Bert Anciaux, to ban revisionist and negationist books from public libraries in Flanders has provoked lots of debates.

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Asylum policy and immigration

In 2001, the primary issue as regards Belgium’s policies on asylum and immigration was the completion of the regularisation process initiated by the Parliament vote on 22 December 1999 of the regularisation law, whereby the categories of illegal

immigrants eligible to asylum were defined and an independent commission to examine applications on a case-by-case basis was set up.

The regularisation process has been largely criticised for its cumbersome bureaucratic procedure, the divergent opinions on the commission's functioning and as a result of this, the delays in studying applications. The initial deadline of 1 July 2001 was missed and the completion of the process was put off till 1 October 2001.

According to the latest statistics of the Ministry of the Interior, as of 28 November 2001 the French and Flemish chambers of the regularisation committee have studied 28,794 dossiers out of the 36,910 dossiers collected through the application process. Nearly 90 percent of them have received a positive answer.

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Women's rights

On 8 March 2001, Belgium's Prime Minister, the Minister of Justice and the Minister of the Interior used the occasion of the International Women's Day to present a new governmental plan to combat the violence against women along three main directions: domestic violence, trafficking of women for sexual exploitation, and cooperation and development.

Statistics demonstrate that 20% of women in Belgium are subjected to domestic violence. The government has committed itself to carrying out a large information campaign and to increasing the number of specialised aid centers from 84 to 196. Police officers will be further trained to deal with cases of domestic violence.

In 2001, as in previous years, hundreds of women were brought to Belgium via mafia networks as victims of human trafficking. They come primarily from countries of Central and Eastern Europe as well as from Asia and Sub-Saharan Africa. They were lured to the country by promises of high-paid work but were treated as sexual slaves on arrival. The plan proposed by the Belgian Government envisages the consolidation of the existing three centers for victims of trafficking as well as the establishment of a center for information and analysis of this phenomenon. Further, the specialised centers will have the authority to act as a civil party for the victims or appear in court on their behalf. The whole mechanism is intended to help victims in terms of their social and psychological rehabilitation on one hand and dismantle the criminal networks, on the other.

In March 2001, the Senate adopted an amendment to Article 10 of the Belgian Constitution, which stipulates that the "equality between men and women is guaranteed". The new article 11 bis envisages that the federal government as well as the governments of the federated entities should be mixed. Currently, ministerial teams have uniquely male representation. This constitutional amendment will serve as a basis for a draft law providing for alteration of men and women on election lists.

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Rights of the child

On the 20th of November 2001 Belgium celebrated the twelfth anniversary of the Convention of the Rights of the Child of 20 November 1989 to which Belgium is a signatory member.

Although children living in Belgium do not suffer the atrocities of war like some children living in other parts of the world, such as Afghanistan, and therefore enjoy a comparably fortunate position, there is still a lot of improvement to be done before children's rights are fully implemented in Belgium.

Children's rights come particularly under pressure in family conflict situations like divorce proceedings. A child does not want to miss neither of its parents, even after divorce of its parents, but Belgian courts traditionally have acted in a very paternalistic way deciding in "the best interests of the child" and granting custody of the children to the mother in 95% of the cases.

The automatic granting by Belgian courts of custodial powers to a single parent, the mother, violates the rights of the other parent and especially the rights of the child to have equal access to the other parent. These decisions of the court are purely discretionary, the court often not giving any clear reasons for discriminating against the father, other than "the best interest of the child", which in Belgium was, and is synonymous with granting quasi exclusive custody rights to the mother. It is difficult to sustain that it is in the best interests of the child to be denied access to the other parent. This unilateral process of granting custody to the mother has led to the outrage of fathers over the whole country and led to the creation of numerous organizations for the defense of the rights of the non-custodial parent, in the majority of the cases the father.

However, notwithstanding Belgium claiming to be on the forefront of the protection and defense of the rights of the child, the Belgian legislator and judiciary have done nothing to abate this severe violation of the child's right to a family life and equal access to his parents. This elementary children's right seems to be of a low priority today as it was in the preceding years. The courts are still insensitive to these criticisms and continue implementing their single parent custodial policy, where the non-custodial parent, the father, is sanctioned twice because it is denied free access to its child and financially because it has to pay financial support to the custodial parent. This situation also leads to a violation of the constitutional rights of parents and the denial of the non-custodial parent, the father, of its right to equal treatment. All Belgians are equal before the law. However, Belgium has still to prove that fathers and mothers are equal before a court of law. Currently, fathers are being discriminated against and denied their elementary rights to equal treatment. Family courts are biased.

Preceding reports have highlighted the kidnapping by one parent of a child and the abduction to a foreign country, where Belgian authorities took some action to obtain the return of the children to Belgium. Paradoxically, when such situation arises within the Belgian borders, i.e. when one parent removes a child from the family home and from the care of the other parent, for example in the wake of divorce proceedings, courts will mostly ignore this situation and it is not unusual to see the court grant custody of the child in ulterior divorce proceedings to the parent who abducted the child. This situation not only leads to great injustice because the parent from whom the child was abducted will feel that the court is rewarding the other parent for the abduction, through the granting of custodial rights but is also an

incentive for a parent to abduct a child and remove it from the family home and care of the other parent because it speculates that the court will grant it official custody rights in ulterior divorce or other family proceedings, thereby legalizing an illegal situation.

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Judiciary

Although Belgium proudly claims its position as capital of Europe and boasts its active membership in all kinds of international organizations and its pioneer status in equal treatment of citizens, defense and protection of the weak and children, Belgium has still a long way to go before it really lives up to all these standards. Belgium wants to look progressive in its defense of human rights but below this façade, reality is very different. An illustration of this is the adoption in Belgium of a unique law whereby it is possible to file a criminal complaint and prosecute a person or head of a foreign state in Belgium for war crimes, genocide and crimes against humanity, regardless of where these were committed in the world. In its bigotry, Belgium is thus prepared to act as judges of the world, where at home Belgium seems incapable of cleaning up its own act and solving some fundamental malfunctions of the legal system.

I. Bar associations and lawyers

The independence of lawyers in Belgium is still a problem. Lawyers were and are still hindered and even prevented to act on behalf of a client due to the injunctions and commands of the presidents of local bar associations. This problem has remained unchanged and no measures have been taken to prevent these kinds of abuses and manipulations of the judicial process by presidents of bar associations. Overall, lawyers questioned remain very skeptical and fearful of their hierarchical authorities and bar organizations. Lawyers defending sensitive issues or politically tainted cases are especially vulnerable to outside interference. Some of these cases and/or clients do not find a lawyer who is prepared to defend them because the lawyer fears retaliation from the bar association, colleagues and other authorities if they represent a particular client or case. This situation is particularly worrying for a modern and democratic country like Belgium.

Basic human rights are denied to lawyers who are themselves party to a lawsuit. Surprisingly, lawyers have fewer rights than an ordinary citizen. In Belgium, theoretically every citizen has the right to represent himself in court and appear "*pro se*". A lawyer is denied this basic human right. A lawyer is even denied the right to act for family members. This is like forbidding a doctor to treat himself, his wife and children. Moreover, a lawyer is denied free access to the courts when he wants to summon a colleague for damage suffered through a tort or for breach of contract. These obscure interdictions are upheld by the bar associations - whose presidents and councils are undemocratically elected - to protect corporatist interests and more generally to retain control over the legal process. Furthermore, courts tend to be biased towards a lawyer who is himself party to a lawsuit, underlining the inequality of treatment by the courts of different segments of the population.

In 2001 an attempt was made in the courts to modernize the working of the bar associations by enabling Belgian lawyers to practice under an employee status, as in most other countries. This initiative was met with fierce opposition from the bar authorities who are trying to uphold certain privileges and defend the vested interests and greed of some big law firms.

The bar associations are autonomous organizations, lacking the transparency, publicity and supervision necessary to prevent certain abuses and malfunctions.

II. Court malfunctions

The Belgian Judiciary and court system suffers from deep and endemic structural problems which have lead some commentators to say that in Belgium "abuses are crystallized in the system". The Judiciary is unable to manage its case load effectively, which is the main cause of the staggering backlog of cases pending before the courts. The backlog of cases is usually blamed on the high litigation rate and dilatory tactics of parties and lawyers. This is only partially true and an excuse to confront the real issues. The Judiciary like any other profession has vested interests which are very difficult to modify. The Judiciary enjoys a comfortable and secure lifestyle and does not want to be troubled by party considerations of litigants, after all it is not the judge's life or interests that are at stake in a lawsuit but those of an ordinary citizen, a statistic, a number. The judiciary seems strange and aloof to the citizen's aspirations for justice. Simple and straightforward cases can drag on for years because courts postpone cases and schedule hearings at distant dates (it is no exception to see courts fix a hearing date in a minor case, one and a half years from the moment of request) because of practical and self-interested reasons. Malevolent litigants take advantage of these situations and deficiencies to commit abuses. This gives the impression to citizens that no justice can be obtained and that courts baffle their rights. Citizens lose confidence in their court system. In 2001 the Belgian State was condemned by the Court of First Instance in Brussels because of its failure to take adequate measures to resolve the backlog of cases and the damage which individual litigants suffer as a consequence.

The Belgian public still lacks confidence in its Judiciary and perceives it as corrupt. Concerns about the independence of the judiciary are echoed by reports in the press about judges being members of secret societies, such as Masonic lodges traditionally exerting a strong influence on government and Judiciary in Belgium. Some court cases are allegedly settled and "arranged" within these Masonic lodges and societies. Belgium did not take measures to ensure the public that they can trust their Judiciary. Appointments of judges still lack transparency in Belgium. A citizen is entitled to know whether the judge - holder of a public office and a public person - who is about to judge his case and sometimes his life, presents all the guarantees of independence and impartiality which he is in right to expect from such high office. "Justice should not only be done but seen to be done". Some commentators blame the blocking of the reform of the court system and related abuses on the power of these secret organizations, furthering their own private and corrupt interests.

In the aftermath of the pedophile scandals in Belgium and what became known as the "Dutroux scandal", Belgium had to take some measures to appease the criticisms and outrage of the population about the total failure of judicial system. However, some of these measures seem as window dressing, not bringing any real improvements. One of the measures was the creation of a High Council for Justice

(*Conseil Supérieur de la Justice*) which was supposed to act as a watchdog for judicial correctness. The two main tasks of the High Council for Justice are the supervision of the appointment of judges and the processing of complaints filed by citizens about abuses and miscarriages of justice. The High Council for Justice has released its first report on the 26th of November 2001. The findings of this initial report are rather disappointing. Of the total amount of complaints filed with the High Council for Justice during the period 2000-2001, 91% of the complaints were declared inadmissible. Of the remaining complaints, only 43% were processed. It can therefore be concluded that over the surveyed period, less than 5% of the citizens and litigants which filed complaints with the High Council for Justice received an answer to their question or problem. It is therefore to fear that the High Council for Justice is a meager consolation for exasperated litigants, not providing direct answers to the fundamental problems and issues with which the Belgian Judiciary is confronted.

Reporting about the administration of justice in Belgium is troublesome. The Judiciary and government do not keep any centralized records or statistics of the number of complaints received or the actions taken in disciplining magistrates. Available reports are seriously biased, all official reports being prepared by the Belgian government, or government institutions, seriously compromising the objectivity and independence of these reports. The Belgian government acts at the same time as auditor and audited party. The reports and data which the Belgian government itself provides to international organizations, such as to the Commission of Human Rights of the United Nations, lack impartiality and can to this extent be considered as state propaganda.

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National minorities

On 31 July 2001, Foreign Minister Louis Michel mandated by the federal parliament and the parliaments of the federated entities signed the European Framework Convention on the Protection of National Minorities. However, before the Convention is to be ratified, the five federated entities will have to define the concept of "national minority". It is already known that the Flemish government does not want French-speaking residents in the Flanders to be considered a national minority.

In September 2001, Mrs Lilli Nabholz-Haidegger, rapporteur for the Council of Europe, carried out some investigation about the protection of minorities in Belgium and urged the Belgian authorities to ratify the Framework Convention. Her report is to be debated in January 2002 in Strasbourg.

In 1998, the Parliamentary Assembly of the Council of Europe sent a first rapporteur to Belgium, Mr Dumeni Columberg, to investigate about the situation of the French-speaking population living in the Brussels periphery (about 120,000 people). His report focused on the six communes with linguistic facilities (about 40,000 people) - Drogenbos, Kraainem, Linkebeek, Rhode-Saint-Genèse, Wemmel and Wezembeek-Oppeem - situated in the Brussels periphery but in the Flemish region.

It must be reminded that since 1932 the territoriality principle has been applied which stipulates that in monolingual regions, the use of the language of that region

is compulsory for all public administrative acts. The 1932 language laws provided for a census every ten years that could lead to an adaptation of the language border. If the percentage of a linguistic minority in a commune reached 30%, linguistic facilities were to be introduced in the commune; if a majority of 50% or more pronounced themselves in favour, the linguistic status of a commune could be changed. The census due to be held in 1960 was boycotted by roughly 300 Flemish mayors, apparently because they feared that the census would prove the existence of French-speaking minorities in their communes, with the possible results outlined above. Such censuses would have avoided most of the linguistic problems that arose in the next decades.

The 1962-1963 language laws demarcated and fixed the language boundary still valid today. This was a purely political deal and the concerned populations were not involved. The same laws provided for linguistic facilities for the inhabitants of 27 communes contiguous to a different linguistic region, who have the right to request that, in their dealings with the authorities (regarding i.e. administrative matters, education, and relations between employers and their employees), language other than that of the region in which the communes are located should be used. Since a constitutional amendment adopted in 1988, the linguistic facilities in these 27 communes cannot be changed except by a federal law with a special majority. Six of the 27 communes with facilities lie on Flemish territory in the Brussels periphery and a large share, sometimes a majority, of French-speaking inhabitants. Though the official language in these communes is Dutch, these inhabitants have the right to request that, in their dealings with the public authorities, French be used.

In the present-day Belgian Federal State, there are four linguistic regions: the bilingual region of Brussels Capital, the Dutch-speaking region, the French-speaking region and the German-speaking region (about 60,000 people).

In 1998, a conflict arose when the Flemish government started restricting as far as legally possible the use of the linguistic facilities, with the aim of reinforcing the Flemish, Dutch-speaking character of the region, including the six communes in question. The contested circular letter of the Minister of Interior of the Flemish government, Mr Leo Peeters, instructed these communes only to issue documents in French "every time an individual has made the express demand", which was contrary to the practice that the individual inhabitant only had to demand once that all documentation be sent to him in French.

This tendency of the Flemish government seemed itself to have a perceived "Frenchification" of the Brussels periphery, a fear to which some French-speaking politicians contributed to some extent. The linguistic conflict resolution mechanisms are the Permanent Linguistic Control Commission, the Deputy Governor of the Province of Flemish-Brabant and several courts (e.g. Court of Arbitration, Council of State, European Court of Human Rights).

Political conflicts between Flemish authorities and communal authorities regularly arise in communes with facilities while there is usually peaceful coexistence between French- and Flemish-speaking inhabitants.

In communes with facilities, Dutch language schools in principle accept all pupils, both from outside the commune in question and of French-speaking parents. However, a child may only be enrolled in a French language school in the six

communes on the condition that the parents are residents of the commune in question and that the head of family declares that the French language is the child's mother or usual tongue. The language inspectorate may challenge the correctness of this declaration, as a result of which it seems the child can be expelled from the French-speaking school. This practice is however not consistent with the 23 July 1968 decision of the European Court which stipulated that children of parents not resident in the six communes with linguistic facilities in the Brussels periphery should nevertheless be allowed to attend the French-speaking schools in these communes.

In its judgment of 2 March 1987 in the case of Mathieu-Mohin and Clerfayt against Belgium, the European Court of Human Rights further implicitly recognized that French-speaking electors in the Dutch-speaking region are not deprived of their electoral rights by the fact that they must vote for Dutch-speaking candidates.

Other concrete problems have arisen in communes with facilities in the last few years:

- a) The language to be used in communal councils where the mayor and most councilors are French-speaking is sometimes a source of controversy. According to the Flemish government, the facilities only apply to the administrated and not to the administrators and therefore only Dutch may be spoken in the council of the commune. According to the French Community, citing a decision of the Court of Arbitration of 10 March 1998, claims that the obligation to speak Dutch only extends to the mayor and his deputies, not to individual councilors.
- b) According to a decree of the Flemish parliament, public libraries can only be subsidized if at least 75% of the books are in Dutch. The result has been the establishment of private libraries in some of the communes with facilities (with more than 25% of French books). Some communes gave modest subsidies to these private libraries but this gave rise to much protest from Flemish politicians. In 1998, Minister Leo Peeters threatened to close the public library of the commune Wezembeek-Oppem because only 57% of the books were in Dutch and the Flemish Minister of Culture instructed his administration to withdraw the library's accreditation as of 1 January 1999.
- c) The situation is similar with regard to youth associations and cultural organizations. The distribution of a French language magazine, "Carrefour", in these six communes, is very disputed. This magazine, Flemish politicians allege, is subsidized to the tune of 10.5 million BEF (260,000 Euro) by the French Community, which they consider a flagrant violation of the territoriality principle.
- d) The diffusion of French-speaking television channels has also become a source for dispute too. "Télé-Bruxelles", a French-speaking regional TV channel, is not allowed to broadcast outside the Brussels-Capital Region (neither is the Dutch-speaking equivalent, though). Several TV programmes from France have been eliminated by the communal cable-distributors.
- e) The question of social housing has also raised some problems in these six communes. Apparently, social housing is preferentially accorded to the autochthonous population, who have to show a strong link with the Flemish

periphery, which is interpreted locally as sending children to Dutch language schools, being members of Dutch-speaking cultural organizations, etc.

- f) At the end of 2001, the mayor of Wezembeek-Oppem received a letter from the Finance Minister of the Flemish government ordering him to reimburse the residents of his commune a local tax because the document had been drafted in French and not in Dutch.

In 25 years' time, the Permanent Linguistic Control Commission (created in 1963) treated about 2,000 complaints; only ten of the Commission's decisions were contested.

It is noteworthy that at no time have the various linguistic compromises (from 1932 to 1993) been submitted to the people themselves in a referendum.

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Religious intolerance and discrimination

The relationship between the state and religions in Belgium is historically rooted in the principle of recognition and non-recognition of religions. However, recognition criteria were never enshrined in the constitution, in decrees or in laws.

Six religions and secular humanism (*laïcité*) are currently recognized by the state. When the Belgian state was created in 1830, a number of religions had already been recognized under French rule: Catholicism and Protestantism (since 1802) and Judaism (since 1808). They enjoyed, *de facto*, the status of recognition by the Belgian state. Anglicanism was recognized in 1835, Islam in 1974 and Orthodoxy in 1985. Secular humanism has indirectly enjoyed state recognition since the last revision of the constitution (17 February 1994). Buddhism might be next on the list.

In the past, the Belgian state also used its discretionary power to recognize one or two movements inside spiritual families where diversity prevailed: the Greek and Russian Orthodox Churches in the Orthodox family; the EPUB (*Eglise Protestante Unie de Belgique*/United Protestant Church of Belgium grouping together a number of historical churches) and Anglicanism (separately) in the Protestant family. Pentecostal and Evangelical Churches, which were denied a separate recognition by the Ministry of Justice, tried to create a common platform with the EPUB to enjoy the advantages of the recognition. The policy of the Ministry of Justice in this regard is a clear form of state interference in the religious sphere.

Not all the movements inside the Muslim community have joined the administrative representative body which is recognized by the state as the spokesorgan of Islam. In the secular humanist family, only the *Centre d'Action Laïque* (Center of Laicist Action) is recognized by the state. This situation has not changed.

Eight federal ministries, the ministries of the three linguistic communities, the ministries of the three regions (Flanders, Wallonia and Brussels), the administrations of the ten provinces and the 589 municipalities are involved in the financing of recognized religions and secular humanism but Islam remains dramatically under-financed. On the one hand, the federal state pays the salaries, retirement and

lodging costs of ministers and also subsidizes the construction and the renovation of places of worship but decides how many clerics will be paid in each religion ; here again, there is a clear interference of the state in the religious sphere. On the other hand, the municipalities must pay any debts incurred by the ecclesiastical administrations of recognized religions without having the right to check their accounts.

Although some political parties in power openly raised the issue of the reform of the financing system of religions and secular humanism, no draft law was however presented to the Parliament. Therefore, the financing system remains discriminatory towards members of non-recognized religions and these same religions.

Jehovah's Witnesses and other minority religions were denied the right to bring spiritual assistance to their members in hospitals, detention places for asylum-seekers and similar institutions, a right granted only to chaplains of recognized religions and moral advisers of secular humanism. In public schools of the French-speaking community of Belgium, Jehovah's Witnesses children are obliged to attend either ethic classes (inconsistent with their beliefs) or classes of another religion while in the Flemish-speaking community, they may be exempted.

The Cult Issue

The list of 189 movements suspected by the parliamentary commission to be harmful sectarian organisations which was annexed to their report (1997) continued to be a source of discrimination by private and public authorities. Cases of intolerance and discrimination towards individuals and religious groups were recorded by *Human Rights Without Frontiers* in 2001: victimisation at school (Jehovah's Witnesses), at work and in the neighbourhood; hate speech in the media; defamation; slander; professional damages; denial or loss of child custody or visitation rights in divorce settlements, etc.

The information and prevention brochure « *Guru, you'd better watch out !* » which was massively distributed in 1999 by the French Community in schools and in public places is still used as a reference although its assertion that there are 189 active sectarian organisations in Belgium is in total contradiction with the parliamentary report on sects. This reinforces and strengthens negative stereotypes, intolerance and discrimination in society.

The Anthroposophic Society lost its case against the French Community of Belgium in a dispute over the brochure "*Guru, you'd better watch out!*" which presents anthroposophy as a dangerous esoteric sect. The court declared that the grievances were unfounded and that no fault could be imputed to the French Community which has just the information available in the parliamentary report on sects.

In the case of a unilateral breaking of a rental contract for premises opposing the association Sahaja Yoga to the Cultural and Congress Center of Woluwé-St-Pierre (Brussels), the Centre's lawyer demanded that the "sect" be legally dissolved on the basis that its activities were allegedly damaging to public order and contrary to standards of behaviour. No hearing was fixed in 2001.

For years, Jehovah's Witnesses has been holding its annual convention at the Brussels Exhibition Center but in March their leaders received a letter notifying them

that they could not use that facility for their 2001 meeting. The rejection letter specifically mentioned the appearance of Jehovah's Witnesses on the parliamentary list as reason for the refusal.

The Hare Krishna movement was a particular target of public and private authorities. After four years of activities, the mayor of Liège banned their free distribution of vegetarian food to people in need. The director of the Housing Trust for large families in Wallonia refused to grant a loan to the "International Society for Krishna Consciousness" for the purchase and renovation of a building on the grounds that "it appears on the list of sectarian movements published in the report of the Parliamentary Commission on sects." Families practising homeschooling were harassed by the francophone Ministry of Education although it is permitted by the Belgian education law. Belgian naturalization was officially denied to one of the leaders of the movement on the ground of "insufficient will of integration" but there is a strong suspicion that the real reason is his religious activities. Born in Uruguay, he has been living for ten years in Belgium and he is quite fluent in French; his children are also French-speaking.

The media coverage (press, TV and radio) of the sect issue is usually biased. Media and courts almost always failed to grant listed movements the right to reply.

The Catholic Church sued the Raelian movement because of their distribution of a leaflet and the creation of an Internet website denouncing acts of paedophilia practised by Catholic priests. The Catholic Church lost the case at the Court of First Instance but won at the Court of Appeal.

In the aftermath of the 1999 big police raid against offices and homes of members of the Church of Scientology, a second smaller raid took place on the Church's headquarters in Brussels on 8 February 2001. Additional documents were seized. The Church took legal action to get the confiscated documents back and filed a complaint against the Prosecutor's Office on the alleged ground that he provided prejudicial statements to the press in violation of the country's secrecy laws regarding investigations. On 6 March 2001, the Church filed a formal complaint against the Government with the U.N. Special Rapporteur on Freedom of Religion and Belief. In December 2001, the Church started legal proceedings against the Belgian state on the ground that it allegedly adopted "de facto" the report of the parliamentary commission on sects.

At the end of 2001, the Sect Observatory called "Information and Advice Center on Harmful Sectarian Organizations" released its first biennial report. The Center opened its offices in September 2000. The Center collects open source information on a wide range of religious and philosophical groups and upon request provides the public with information regarding the legal rights of freedom of association, freedom of privacy, and freedom of religion. The Center's library is open to the public and contains information on religion in general as well as on specific religious groups. The library also includes publications provided by various religious organisations (Jehovah's Witnesses, Hare Krishna, Mormons, etc.). The Center is authorized to propose policy or legislation to the Government on the sect issue; it is only authorized to provide assessments of sectarian organizations on request of public authorities. The Center can publicize such assessments. In its first biennial report, the Center published his advice on the Church of Jesus Christ of the Latter-Day Saints. It stated that it is not a harmful sectarian organisation. Issuance of visas for

Mormon missionaries which was interrupted for a time resumed. No other movement was assessed by the Center in 2001. The Center also proposed to pass a law on the "abuse of the state of weakness" by harmful sectarian organisations.

A "Coordination cell of fight against harmful sectarian organisations" was created by law in October 1998. It meets on a quarterly basis. A subgroup of law enforcement officials meets bi-monthly to exchange information on sect activities. Most law enforcement agencies have an official specifically assigned to deal with sect issues. The Government also has designated one national magistrate in the District Court of First Instance and one local magistrate in each of the 27 judicial districts to monitor cases involving sects.

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Notes:

Le Soir, 8 March 2001, observation made by the director of the Center, Johan Leman

An important amount of complaints filed with the High Council for Justice during the period 2000-2001, precisely concerned custody battles clearly indicating the profound malaise in this area. Report of the High Council for Justice, 26th November 2001, p. 22.

This law was modified on 10 February 1999 and since then countless criminal complaints have been filed against the most diverging people, mostly frivolous, embarrassing Belgium on an international level and taking up valuable court resources and time away from normal case load and further contributing to the huge backlog of cases pending before Belgian courts (see point II, hereafter).

De Standaard, 24 April 2001, p. 9.

Tribunal of first instance of Brussels, 6th november 2001, *Journal des Tribunaux*, 1st December 2001, p. 865.

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