



2004 Annual Report on Human Rights in Belgium

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The main human rights concerns in Belgium in 2004 were ill-treatment by police, problems within the prison system, xenophobia and racial discrimination, and violations of the rights of asylum seekers and immigrants.

On 13 June, elections were held to elect representatives to the parliaments of the three Belgian regions (Flanders, Wallonia and Brussels) as well as to the parliaments of the three Belgian language communities (the French, Flemish and German communities). The results of these elections showed growing support to parties in the far right political spectrum. The far-right Vlaams Blok became the second largest political group in the regional parliament of Flanders winning 24.1% of the votes and securing a third of the seats. Another far-right party, the National Front (Front National), gained 8.1% of the votes in the elections to the regional parliament of Wallonia, and thus increased its representation from one to four seats. In the elections to the parliament of the Brussels region, which is divided into a French-language and a Dutch-language section, the National Front won 5.4% of the votes among French-speakers and Vlaams Blok 34.1% of the votes among Dutch-speakers.



In July, the UN Human Rights Committee adopted concluding observations and recommendations on Belgium's fourth periodic report about its implementation of the International Covenant on Civil and Political Rights (ICCPR). The committee expressed concern regarding persistent allegations of police brutality, which was often racially motivated, as well as allegations of the use of excessive force during operations to remove non-nationals from the country. The committee also noted with concern the occurrence of racist, xenophobic, anti-Semitic and anti-Muslim acts.¹

In the framework of the UN deliberations on Belgium's fourth periodic report, three NGOs presented an alternative report to the UN Human Rights Committee.²

In January, the European Commission against Racism and Intolerance (ECRI) made public its *Third Report on Belgium*, which covered developments until June 2003. ECRI recommended a more determined institutional response against the use of racist or xenophobic discourse in politics and called for further efforts to prevent racist and discriminatory behavior by police. It furthermore stressed the need to address manifestations of anti-Semitism and Islamophobia as problems affecting Belgian society as a whole and not only certain communities in the country.³

Both the UN Human Rights Committee and ECRI criticized the fact that political parties inciting hatred remained eligible for public funding. In an important development, lengthy court proceedings against three non-profit associations linked to Vlaams Blok were concluded in November. Vlaams Blok was disbanded following the final decision of the Court of Cassation condemning it as a racist party. However, in its place, a new party called Vlaams Belang (Flemish Interest, also with the acronym VB) was established. During the year, the Chamber of Representatives also adopted draft legislation to implement a 1989 law allowing for the withdrawal of public funding to political parties that manifest hostility toward human rights. However, its progress in the Senate was stalled.

Freedom of Expression, Free Media and Information

The rights of freedom of speech and freedom of the press were generally respected. However, the principle of the confidentiality of journalistic sources remained a subject of discussion. In 2003, two bills regarding the protection of journalists' sources were submitted to the Chamber of Representatives but only one of them was

¹ UN Human Rights Committee, *Concluding observations of the Human Rights Committee: Belgium*, 12/08/2004, CCPR/CO/81/BEL. (Concluding Observations/Comments), 14 August 2004, [http://www.unhcr.ch/tbs/doc.nsf/\(Symbol\)/5521fe7631cba75fc1256efc0054e18d?Opendocument](http://www.unhcr.ch/tbs/doc.nsf/(Symbol)/5521fe7631cba75fc1256efc0054e18d?Opendocument).

² Ligue des Droits de l'homme, Liga voor mensenrechten, and Mouvement contre le racisme, l'antisémitisme et la xénophobie, *Rapport alternatif des ONG*, presented to the UN Human Rights Committee on 12 and 13 July 2004.

³ ECRI, *Third Periodic Report on Belgium*, adopted on 27 June 2003 and published on 27 January 2004, ECRI (2004) 1, http://www.coe.int/T/E/human_rights/Ecri/1-ECRI/2-Country-by-country_approach/Belgium/Belgium_CBC_3.asp#TopOfPage.



taken up for further debate.⁴ The Senate amended and passed the bill on 27 January 2005 and the Chamber finally adopted it on 17 March 2005,⁵ following lively debates due to the sensitivity of the issue as well as the difference of approaches.⁶ The new law provides that journalists have the right not to reveal their sources. However, article 4 of the law envisages exceptions upon request by a judge in cases where the sources need to be disclosed in order to warn authorities of a serious threat to the physical integrity of one or more people.⁷

A draft resolution on the protection of the rights of journalists and editors in the exercise of their profession was also submitted to the Senate in February 2004. It would expand the scope of protection of journalists and editors and their access to sources of information.⁸ Senate discussions on this issue were pending as of the end of 2004.

- On 19 March, Brussels police carried out a court-ordered search of the home and office of Hans-Martin Tillack, Brussels correspondent of the German weekly magazine *Stern*. In 2002 Tillack wrote an article about corruption in EU institutions. The EU anti-fraud office OLAF subsequently accused him of paying EU officials for information used in this article and a Brussels court initiated an investigation into the case. The management of *Stern* said that the accusations against Tillack were unfounded and denounced the raid as an attack on press freedom.⁹

Federal police was reportedly developing a new system to spy on broadband Internet traffic. This system will make it possible to tap phone conversations over the Internet and to obtain copies of email messages. Among others, the League of Human Rights expressed concern that the system, once in place, could be used to monitor Internet traffic in violation of existing legal standards.¹⁰ Article 90 of the Criminal Procedure Code only allows the monitoring of Internet traffic on the basis of a court order and within a strictly defined framework.

⁴ The introduction to the first bill (*Proposition de loi visant à accorder aux journalistes le droit au secret de leurs sources d'information*, www.lachambre.be) referred to a case from 2002, in which the Tribunal of First Instance of Brussels ordered two journalists to pay EUR 25 for every hour they continued to refuse to disclose their sources for an article published in the Flemish-language newspaper *De Morgen*. The draft was analyzed within the Justice Committee but was not taken up for further debate.

⁵ *Projet de loi relatif à la protection des sources journalistiques*. The timeline of the law adoption, amendments and final text can be found at www.lachambre.be.

⁶ *Rapport fait au nom de la Commission de la Justice par Tony Van Parys*, 10 March 2005, www.lachambre.be.

⁷ Article 4, *Loi relatif à la protection des sources journalistiques*.

⁸ *Proposition de résolution relative aux statuts des journalistes et de rédactions permettant de garantir l'exercice optimal de leur liberté d'information et de leurs autres missions démocratiques de service public*, www.lachambre.org.

⁹ Reporters without Borders, "Police search home and office of journalist who exposed fraud," press release, 20 March 2004, www.rsf.org.

¹⁰ *Ligue des droits de l'homme, La chronique de la Ligue des droits de l'homme*, issue 104, 2004, pp. 11.



Anti-Terrorism Measures

On 13 June 2002, the Council of the European Union adopted a framework decision on the fight against terrorism. In order to implement this decision, a new law on terrorist offences and terrorist groups was adopted in Belgium in December 2003.¹¹ Lawyers and civil groups questioned the necessity of this law, arguing that the Criminal Code contained sufficient provisions related to terrorist offences.

In June 2004, the Ligue des droits de l'homme, Liga voor mensenrechten, and the Syndicat of Lawyers for Democracy submitted an appeal to the Court of Arbitrage for the annulment of the law. The main concern of the three organizations was the vague definition of terrorism, which could jeopardize the activities of various social movements. They also found the new law superfluous as its provisions that guaranteed, for example, equality before law and respect of private and family and prohibited discrimination, unjustified detention, and unlawful punishment were already covered by Belgian legislation and international human rights instruments. The UN Human Rights Committee also criticized the law's vague definition of terrorism, which "does not entirely satisfy the principle of offences and penalties being established in law (art. 15)" and recommended that a more precise definition of terrorist offences be produced.

On 25 November, a draft resolution was deposited with the Chamber of Representatives dealing with the fight against terrorism.¹² At a press conference in February 2005, Justice Minister Laurette Onkelinx announced plans to create the post of federal magistrate to deal with issues related to the fight against terrorism.¹³

¹¹ *Moniteur belge*, "Loi du 19 décembre 2003 relative aux infractions terroristes," 29 December 2003.

¹² *Proposition de résolution relative à la lutte contre le terrorisme*, deposited by Daniel Bacquelaine, François-Xavier de Donnea, Josée Lejeune and Corinne de Permentier, 25 November 2004, www.lachambre.be

¹³ *Le Soir*, 1 March 2005.



III-Treatment and Police Misconduct

In its concluding observations on Belgium's fourth periodic report, the UN Human Rights Committee expressed concern about the persistence of allegations of police violence, which was often racially motivated. The committee noted that, "[a]ccording to certain reports, investigations are not always thorough and judgments, when handed down, are still mostly of a token nature."¹⁴

Belgian law provides for complicated procedure for the investigation of racially motivated misconduct by the police. Belgium's Permanent Commission for Control of Police Services (Standing Committee P), which was established by a law adopted in 1991, oversees 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 (CELCR), a government body charged with overseeing the implementation of this law, can 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 can initiate an inquiry.

The alternative report that was presented to the UN Human Rights Committee noted, however, that effective implementation of the provisions of the 2003 Anti-Discrimination Law was undermined by the fact that they were at variance with other legal documents.¹⁵ In addition, one major problem was that there was lack of communication between Comité P and the judicial authorities once a case was transferred to the judicial authorities. Hence, in order to have access to the files of an individual case, Comité P had to address a specific demand to the public prosecutor's office. The climate of impunity and unaccountability for racially motivated police misconduct was reinforced by the lack of transparency in the investigation procedure as well as the leniency of final judgments handed down for such abuse.

Prisons and Detention Facilities

In its concluding observations on Belgium's fourth periodic report, the UN Human Rights Committee pointed to two major problems within the prison system. First, the

¹⁴ UN Human Rights Committee, *Concluding observations of the Human Rights Committee: Belgium*, 12/08/2004, CCPR/CO/81/BEL. (Concluding Observations/Comments), 14 August 2004, [http://www.unhchr.ch/tbs/doc.nsf/\(Symbol\)/5521fe7631cba75fc1256efc0054e18d?Opendocument](http://www.unhchr.ch/tbs/doc.nsf/(Symbol)/5521fe7631cba75fc1256efc0054e18d?Opendocument).

¹⁵ Ligue des Droits de l'Homme, Liga voor mensenrechten, and Mouvement contre le racisme, l'antisémitisme et la xénophobie, *Rapport alternatif des ONG*, presented to the UN Human Rights Committee on 12 and 13 July 2004.



committee criticized the practice of keeping mentally ill people in prisons and psychiatric annexes to prisons for months before transferring them to social institutions. Second, it expressed concern that overcrowding in prisons was a persistent problem due to the increasing use of preventive detention, a growing number of long-term sentences, and a decrease in cases of conditional release. In 2004, 8,092 places were available for a total of 9,249 prisoners.

In a welcome development, on 13 January, the government submitted to the Senate a bill aimed at strengthening Criminal Procedure Code provisions on the right of detainees to have access to a lawyer and a doctor of their choice.

Freedom of Religion and Religious Tolerance

State and Religion

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 have never been enshrined in the Constitution, in decrees or in laws. Six religions (Catholicism, Protestantism, Anglicanism, Judaism, Islam and Orthodoxy) and secular humanism (*laïcité*) are recognized by the state. This system of hierarchy of religions generates various forms of institutional discrimination.

The state only finances recognized religious communities. In 2004, as in previous years, the representative bodies of Islam complained that their community was under-funded. State subsidies were provided by all taxpayers, including those who professed a non-recognized religion or who did not adhere to any religion or belief system.

Recognized religious communities were entitled to organize state-funded religious classes in public schools while non-recognized religious communities were not. In schools under the authority of the Flemish Community, children professing a non-recognized religion could be exempted from attending religious or ethical classes and could study material about their own religion in a special classroom. In schools under the authority of the French Community, children professing a non-recognized religion and "secular humanists" had to choose between a religious class and an ethics class.

The 1999 Foreign Workers' Act requires that foreign missionaries who represent non-recognized religions obtain a work permit before applying for a visa to enter the country for religious work, but the same requirement does not apply to foreign missionaries of recognized religions. At the OSCE Human Dimension Implementation Meeting in Warsaw in October 2004, a representative of the Belgian government



acknowledged that this difference in treatment needed to be addressed.¹⁶

Chaplains of recognized religions and moral advisers of secular humanism officially had access to prisons, detention centers for asylum seekers, hospitals, the armed forces, etc. Non-recognized religious communities did not have access to such institutions.

The three linguistic communities financed radio and TV religious broadcasts, including broadcasts of religious services for recognized religious communities. Non-recognized religious communities did not have access to state-funded media.

Relations between the state and the representative bodies of the Muslim community have been strained over the past few years and tensions continued to grow in 2004. In December 1998, elections were held within the country's Muslim community to choose members of a General Assembly and an Executive of Muslims in Belgium. A pre-electoral agreement with the government of the time stipulated that a third of the 68 members of the General Assembly would be replaced by co-optation after a period of five years, but it did not clarify what the procedure for doing so would be. The agreement also stated that new general elections would be organized in 2009. Following various crises in the relations between the state and the Muslim representative bodies, the membership of the Executive was renewed in 2003, with the mandate of the reconstituted body due to expire in May 2004. In July 2004, the government introduced a law requiring that new general elections be held to fully renew the membership of the Muslim General Assembly and Executive, and in late 2004, an elections date was set for 20 March 2005. This course of action was strongly criticized by the Muslim representative bodies.

Discussions about the wearing of headscarves (*hijabs*) in public institutions became less intense during the year. In January, following debates in France and Germany on the issue, two Belgian senators of two different political parties submitted, upon their own initiative, a draft resolution inviting the federal as well as regional- and community-level authorities of the country to adopt new legislative acts banning the wearing of religious insignia in public places, including public hospitals. However, the senators could not garner the support of their respective political parties and the draft was not discussed any further. The government of the French community had already previously handed the responsibility over to schools under their authority to prohibit the wearing of headscarves. In 2004, public schools in Flanders were also given the right to ban the wearing of headscarves. The Flemish educational network for Catholic and general schools argued that it was up to each school to decide whether to ban headscarves.

¹⁶ See "Droit de réponse de la délégation belge sur le document nr 125," OSCE/HDIM, Warsaw, 11 October 2004, Doc. No 331.



The issue of the *burqa*, on the other hand, gained momentum during the year. In 2003, a few communes introduced a ban on wearing the *burqa* in public places into their police regulations. In 2004, the number of communes where such bans applied increased considerably to a total of more than 20 communes, including the towns of Antwerp and Maaseik. A fine of EUR 150 is foreseen for violations of the bans.

The "Sect" Issue

The state had in place mechanisms and agencies – the Center for Information and Advice on Harmful Sectarian Organizations (the Sect Observatory) and the Inter-Ministerial Coordination Agency for the Fight against Harmful Sectarian Organizations – to identify so-called "harmful cults," warn the public and fight against them. In 2004, the Sect Observatory published a leaflet about Jehovah's Witnesses, which was considered biased by the movement itself.

Eight years after the publication of a parliamentary report listing 189 movements suspected of being "sectarian" and "harmful" and seven years after the establishment of the Sect Observatory, judicial proceedings had been initiated only against a few religious movements. Three cases had been pending for several years, namely the cases involving the leader of Spiritual Human Yoga and his secretary (since 1999), the leader of the Buddhist group OKC and his secretary (since 1997), and the Church of Scientology (since 2000).

In 2004, a working group was established to follow up on the recommendations made by the parliamentary inquiry commission on "sects" in 1997. However, according to a press release of the francophone Socialist Party group, a revision of the list of sectarian organizations drawn up by the 1997 parliamentary inquiry commission was not on the working group's agenda. In the same press release, the president of the newly established working group warned against the possible establishment in Belgium of an Indian "sect" called the "Maharishi Foundation," which is reportedly already active in the Netherlands.¹⁷

- An Indian woman, who had lived in Belgium since 1993, practiced Sahaja Yoga and was married to a Belgian Sahaja Yoga activist, was in 2002 denied naturalization on the grounds of her religious affiliation. In 2004, she appealed against this decision. The appeal court consulted the Sect Observatory, which recommended that the negative decision be upheld. In the past few years, Sahaja Yoga has also faced a number of refusals when trying to rent public or private places for its meetings. A case on this issue has been pending in court since 2000.
- A restructuring process of the Raelian Movement in Europe motivated by "persecution against new religious movements" has led to the self-dissolution of the legal entity of the Belgian branch.

¹⁷ The doctrine of the religious movement is based on the Vedic teachings. For more information, see *Encyclopedie delle Religioni in Italia*, pp. 533-7, published by CESNUR.



Racism, Intolerance and Xenophobia

Belgium has ratified the ICCPR and the International Convention on the Elimination of All Forms of Racial Discrimination. A new Anti-Discrimination Law was adopted in January 2003, which provides not only for legal protection against racial discrimination, but also against discrimination based on sexual orientation, handicap, state of health, religious and philosophical beliefs and age.¹⁸

The new law supplements the 1981 Anti-Racism Law, which was limited by several deficiencies, in particular, by its narrow definition of discrimination as a criminal act, with the burden of proof placed on the victim. The 2003 Anti-Discrimination Law defines discrimination in broad terms and introduced a new civil procedure aimed at enabling claimants to have their damages redressed and compensated in the quickest possible manner.

However, despite the progress achieved with the adoption of the new law, it remains necessary to revise and reinforce certain parts of it, including those related to protection against discrimination in the areas of access to housing, social services, health care and education.

In its final conclusions and recommendations on Belgium's fourth periodic report, the UN Human Rights Committee noted with concern that a number of racist, xenophobic, anti-Semitic and anti-Muslim acts have taken place in Belgium.¹⁹

In its third periodic report on Belgium published in January, ECRI expressed concern at the continuing presence of racist and xenophobic discourse in politics in the country and at the increasing success of parties that resort to racist or xenophobic propaganda.²⁰

In 1993 CELCR was entrusted with overseeing implementation of the Anti-Racism Law. With the adoption of the new Anti-Discrimination Law, the center was empowered to deal with the expanded scope of motives of discrimination covered by this law.

- In January, under the provisions of article 448 of the Criminal Code and article 12 of the Anti-Discrimination Law, the CELCR filed a complaint with the

¹⁸ Act of 20 January 2003 reinforcing the legislation against racism, published in *Moniteur Belge*, 12 February 2003.

¹⁹ UN Human Rights Committee, *Concluding observations of the Human Rights Committee: Belgium*, 12/08/2004, CCPR/CO/81/BEL. (*Concluding Observations/Comments*), 14 August 2004, [http://www.unhchr.ch/tbs/doc.nsf/\(Symbol\)/5521fe7631cba75fc1256efc0054e18d?Opendocument](http://www.unhchr.ch/tbs/doc.nsf/(Symbol)/5521fe7631cba75fc1256efc0054e18d?Opendocument).

²⁰ ECRI, *Third Periodic Report on Belgium*, adopted on 27 June 2003 and published on 27 January 2004, ECRI (2004) 1.



public prosecutor of Ghent against Cardinal Gustaaf Joos. The center accused Joos, who works in Landskouter, of publicly making derogatory remarks against homosexuals.

- In December, the Correctional Tribunal of Antwerp found a landlord guilty of discrimination for refusing to rent his apartment to a family of Congolese origin. According to the Court, there were no objective grounds for the landlord to refuse to rent his apartment, such as insufficient income on the part of the family or reason to believe that the family would fail to look after his property. His behavior was therefore deemed to be in breach of the principle of non-discrimination provided for in article 2 of the Anti-Racism Law. The decision established an important precedent. While some 7% of all complaints about racism received by the CELCR since 1997 have been related to housing, there have only been two other convictions for discrimination in this area. In one case, a real estate company was found guilty of discriminatory advertisements, and in another case, a proprietor was convicted for the same reason.²¹

The long-running legal proceedings against three non-profit associations linked to Vlaams Blok were brought to a successful conclusion:

- In 2000, the CELCR and the Ligue des droits de l'homme brought to court three non-profit associations linked to Vlaams Blok under article 3 of the 1981 Anti-Racism Law. The center and the league sought to prove that the party's political program was characterized by racial discrimination. In 2001, the Correctional Tribunal of Brussels decided that the case fell within the scope of political offences and, as such, had to be heard by a people's jury. In 2002, following an appeal lodged by the CELCR of this decision, the public prosecutor called for the case to be heard before the Brussels Court of Appeals, which declared that it was not competent to deal with the case. However, the Court of Cassation overruled this decision ordered the case to be brought before the Court of Appeals of Ghent. On 21 April 2004, the latter ruled that Vlaams Blok used racist and xenophobic propaganda in its political activities. In November, the Court of Cassation upheld the ruling of the Ghent Court of Appeals.

On 14 November, following the decision of the Court of Cassation, the party council of Vlaams Blok disbanded the party. However, delegates from local offices of Vlaams Blok convened in Antwerp to establish a new party named Vlaams Belang (Flemish Interest).

It remained an outstanding issue that political parties inciting racial hatred were eligible for public funding. According to a 1989 law regulating the financing of political parties, and an amended version of it adopted in 1999, public funding may

²¹ CELCR press release, December 2004, www.antiracisme.be.

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be limited or terminated if political parties are “hostile to human rights and freedoms.” In 2001, the Council of Ministers adopted a decree to implement this law, allowing for the withdrawal of public funding to political parties “manifesting hostility towards human rights,” but the decree was never implemented. As a result, in 2004, the UN Human Rights Committee expressed concern that political parties inciting racial hatred continue to benefit from public funding, and ECRI expressed regret that arrangements to implement the 1989 law were still lacking and recommended that such arrangements be adopted without further delay.

On 12 February 2004, the Chamber of Representatives adopted a draft law to facilitate the implementation of the 2001 decree. The draft was transferred to the Senate for further debate and approval, and at the end of the year, it was still under consideration in the Senate Committee of the Interior. The draft law establishes 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 Committee for Financial Control of Political Parties within the administrative section of the Council of State. The Council of State, which is due to consider a complaint within six months, could subsequently decide to withdraw funding to a political party for a period between three and twelve months.

Anti-Semitism

World events, in particular developments in the Middle East, contributed to an increase in anti-Semitism and Islamophobia.

In April, the Anti-Defamation League published a report examining the attitudes towards Jews, Israel and the Palestinian-Israeli conflict in ten European countries.²² With regard to Belgium, the study documented a decline in acceptance of certain traditional anti-Semitic stereotypes from 39% in 2002 to 35% in 2004. Some 81% of the respondents in the study agreed that the Belgian government should play a role in combating anti-Semitism in the country.

However, abuse against Jews increased and led to an atmosphere of insecurity among the 35,000-strong Jewish community in Belgium. Jews were the continued target of verbal abuse and harassment, and several cases of this sort were registered at schools during the year. There were also cases where anti-Semitic slogans were shouted in public places and anti-Semitic graffiti was sprayed on synagogues or Jewish owned shops. In the course of one week at the end of June and beginning of July, six aggressions against Jews were registered in the city of Antwerp, the second major city of Belgium, where more than a third of the population voted for the extreme-right political party Vlaams Blok in June 2004. The wave of attacks started when a gang of 10-15 people attacked a group of Jewish students outside the Talmudic school of Wilrijk (Antwerp). Although the police reinforced its patrols, they were not able to adequately protect the Jewish

²² Anti-Defamation League, *Attitudes towards Jews, Israel and the Palestinian-Israeli Conflict in Ten European Countries*, April 2004, www.adl.org.

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community of the city. As of the end of the year, the perpetrators of the attacks in Antwerp had yet to be identified.

- In January, members of the audience shouted anti-Semitic slogans during a football match between an Israeli and Belgian team in the city of Hasselt.
- In February, a youth threatened a Jewish teacher from Antwerp with a knife at a train station in Brussels.
- In April, a Jewish man and his children were physically attacked in Antwerp while they were on their way to the synagogue.
- In June, four Jewish students were attacked in one of the suburbs of Antwerp. One of the students was stabbed in the back and seriously injured. The incident was condemned by political representatives from across the political spectrum.

The government launched a policy of zero tolerance towards acts of anti-Semitism. In February, the federal minister of social integration and intercultural relations met with representatives of the Jewish community in Belgium as well as with officials from the CELCR. Several new initiatives emerged in the context of the government's policy to combat anti-Semitism, such as creating a special unit within the CELCR to monitor and analyze anti-Semitic acts, establishing regular contacts between CELCR, the Ministry of Social Integration and Intercultural Relations and the Ministry of Justice, on the one hand, and the main representative organizations of the Jewish community, on the other hand.

- In October, the Correctional Tribunal of Brussels found three students guilty of verbally attacking a teacher of Jewish origin at the secondary school Athénée Marcel Tricot in Brussels on 14 November 2002. They were sentenced to six months imprisonment (for two of them, the sentence was suspended). They were also ordered to pay a symbolic compensation of one euro to the victim as well as to the CELCR, which acted as a civil party in the case.

On 10 March, a draft resolution was submitted to the Senate of Belgium with regard to the rise of anti-Semitism.²³ It was sent to the Committee of External Affairs and Defence for further discussions. In April, a draft resolution on the rise of anti-Semitism was deposited with the Chamber of Representatives, where debates were still pending as of the end of 2004.²⁴ On 5 July, five senators of the Parliament of Brussels from the opposition Mouvement Reformateur (MR) proposed a bill with regard to the upsurge of anti-Semitism in the country. The bill was discussed in plenary session on 8 October but the whole procedure was subsequently delayed.

²³ *Proposition de résolution relative à la résurgence de l'antisémitisme en Belgique*, drafted by François Roelants du Vivier and Christine Defraigne, www.senate.be.

²⁴ *Proposition de résolution relative à la résurgence de l'antisémitisme en Belgique*, drafted by Olivier Maingain, Daniel Bacquelaine and Corinne de Permentier, www.lachambre.be.



According to the CELCR, there were 82 Internet sites in Belgium that incited anti-Semitism.

*Islamophobia*²⁵

In the aftermath of September 11, the problem of Islamophobia was aggravated. As in previous years, hostility toward Muslims was fuelled by extreme-right parties in 2004. Among other measures, these parties published and disseminated written material targeting Muslims and persons of Arab origin.

In its third report on Belgium, ECRI warned against interpreting manifestations of anti-Semitism and Islamophobia exclusively or predominantly as intercommunity problems, e.g. as conflicts between Arabs and Jews or Muslims and Christians. ECRI stated that an adequate response to such manifestations required concerted efforts of all relevant actors in Belgian society. It also stressed the importance of effectively implementing legal provisions prohibiting racism and discrimination with regard to all perpetrators and for the benefit of all victims.

Migrants, Asylum Seekers and Refugees

According to the Office of the UN High Commissioner for Refugees (UNHCR), the number of asylum applications filed in European countries decreased by 21% in 2004.²⁶ In Belgium, the number of asylum applications decreased by 9% from 16,940 in 2003 to 15,360 in 2004. Belgium was number eight among European countries in terms of the number of asylum seekers received.

Most asylum seekers had their claims examined through an accelerated procedure. The first decision about which procedure to apply was taken by the Aliens Office, on the basis of both formal considerations (such as whether the applicant had transited through a "safe third country") and substantial considerations (such as whether the claim was "manifestly unfounded"). Decisions by the Aliens Office could be challenged before the General Commissariat for Refugees and Stateless Persons (GCRSP). Official figures indicated that the Aliens Office decided in favor of an accelerated procedure in about 90% of all asylum cases and that its decisions were confirmed by the GCRSP in about 70% of those cases that were appealed.²⁷

²⁵ See also IHF, *Intolerance and Discrimination against Muslims in the EU, Developments since September 11*, March 2005, <http://www.ihf-hr.org>.

²⁶ UNHCR, *Asylum Levels and Trends in Industrialized Countries, 2004*, 1 March 2005, www.unhcr.ch/statistics.

²⁷ See, ECRI, *Third Periodic Report on Belgium*, adopted on 27 June 2003 and published on 27 January 2004, ECRI (2004) 1, http://www.coe.int/T/E/human_rights/Ecri/1-ECRI/2-Country-by-country_approach/Belgium/Belgium_CBC_3.asp#TopOfPage.



Asylum and immigration policies were characterized by two major shortcomings. First, Belgium applied a restrictive interpretation of the criteria for refugee status, laid down in the 1951 Geneva Convention. Second, there were no legal provisions regulating the granting of subsidiary protection to persons who did not meet these criteria, but who were in need of protection for humanitarian reasons.

There were six closed asylum reception centers, which were administered by the Foreigners' Office under the authority of the Ministry of Interior. Two of the centers were located at the border. One of these was the INAD center at the Brussels airport, where "non-admissible" asylum seekers were detained before they were returned to their countries of origin or departure, and the other one was the transit center 127, where foreigners who lacked documents necessary to enter the country and apply for asylum were detained. The other four centers, which were located in different regions of the country, accommodated immigrants who were waiting for their documents to be processed. There were reports of foreigners having spent extended periods of confinement in transit centers.

In 2004, the Council of Ministers of the EU approved new common policies on joint operations to remove third-country nationals from the territory of two or more EU member states. The first case of collective expulsion under these rules took place in March, when authorities of Belgium, the Netherlands and Luxemburg cooperated to remove 40 asylum seekers and undocumented immigrants by plane from Brussels airport. According to information from the Ligue des droits de l'homme, military planes were used in this case as well as in subsequent cases of collective deportation.²⁸

In January, an independent commission led by Professor Vermeersch began its work on evaluating the methods used during forcible deportations of foreigners. The interior minister initiated this commission after four law enforcement officials were convicted in December 2003 for their role in the death of a Nigerian asylum seeker during a forcible deportation.²⁹ The report was presented to the Committee of the Interior of the Senate on 2 February 2005.

The detention of accompanied and unaccompanied minors remained a pressing human rights problem. In particular, it remained a concern that unaccompanied minors were reportedly sometimes returned to their countries of origin although it had not been verified that their families or appropriate authorities were aware of their return. A framework law adopted in 2002 provides for the automatic assignment of a tutor to each unaccompanied minor who arrives in Belgium, and abolished the practice of placing unaccompanied minors in closed centers. However,

²⁸ La Ligue des droits de l'homme, *La chronique*, pp.11, issue 104, July-August 2004.

²⁹ See IHF, *Human Rights in the OSCE Area: Europe, Central Asia and North America, Report 2004 (Events of 2003)*, http://www.ihf-hr.org/documents/doc_summary.php?sec_id=3&d_id=3860.



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enactment of this law has been slow due to lack of clarity about the division of competences between the federal state and the language communities. In May 2004, a new program was set up to provide guardianship services for minors both of whose parents are dead, unknown or incapable of serving as guardians.