

ECRI

European Commission against Racism and Intolerance
Commission européenne contre le racisme et l'intolérance

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Third report on Belgium

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COUNCIL OF EUROPE CONSEIL DE L'EUROPE

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Foreword

The European Commission against Racism and Intolerance (ECRI) was established by the Council of Europe. It is an independent human rights monitoring body specialised in questions relating to racism and intolerance. It is composed of independent and impartial members, who are appointed on the basis of their moral authority and recognised expertise in dealing with racism, xenophobia, antisemitism and intolerance.

One of the pillars of ECRI's work programme is its country-by-country approach, whereby it analyses the situation as regards racism and intolerance in each of the member States of the Council of Europe and makes suggestions and proposals as to how to tackle the problems identified.

The country-by-country approach deals with all member States of the Council of Europe on an equal footing. The work is taking place in 4/5 year cycles, covering 9/10 countries per year. The reports of the first round were completed at the end of 1998 and those of the second round at the end of the year 2002. Work on the third round reports started in January 2003.

The third round reports focus on "implementation". They examine if ECRI's main recommendations from previous reports have been followed and implemented, and if so, with what degree of success and effectiveness. The third round reports deal also with "specific issues", chosen according to the different situations in the various countries, and examined in more depth in each report.

The working methods for the preparation of the reports involve documentary analyses, a contact visit in the country concerned, and then a confidential dialogue with the national authorities.

ECRI's reports are not the result of inquiries or testimonial evidences. They are analyses based on a great deal of information gathered from a wide variety of sources. Documentary studies are based on an important number of national and international written sources. The in situ visit allows for meeting directly the concerned circles (governmental and non-governmental) with a view to gathering detailed information. The process of confidential dialogue with the national authorities allows the latter to propose, if they consider it necessary, amendments to the draft report, with a view to correcting any possible factual errors which the report might contain. At the end of the dialogue, the national authorities may request, if they so wish, that their viewpoints be appended to the final report of ECRI.

The following report was drawn up by ECRI under its own and full responsibility. It covers the situation as of 27 June 2003 and any development subsequent to this date is not covered in the following analysis nor taken into account in the conclusions and proposal made by ECRI.

Executive summary

Since the publication of ECRI's second report on Belgium, progress has been made in a number of the fields highlighted in the report.

Two laws adopted in 2003 strengthen the protection provided by criminal law against acts inspired by racism and xenophobia and establish civil remedies against discrimination in different areas and on a wide range of grounds. These laws also extend the competence of the Centre for Equal Opportunities and the Fight against Racism. Progress has been made in the area of monitoring the way in which the criminal justice system deals with acts inspired by racism and xenophobia. A sweeping reform of the police has taken place and initiatives have been taken both at the federal and at the regional or community level in important areas of policy, such as employment.

A number of recommendations contained in ECRI's second report have, however, not, or not fully, been implemented, notably as concerns the institutional reaction to parties which resort to racist or xenophobic propaganda, an issue which remains of special concern to ECRI. In spite of the initiatives taken, much remains to be done to ensure that foreigners and persons of immigrant background enjoy genuinely equal opportunities in employment as the rest of the population of Belgium. The increase in manifestations of antisemitism and islamophobia calls for concerted efforts of Belgian society as a whole against these phenomena. Furthermore, a number of issues as regards asylum seekers and persons without legal status in Belgium are raised by ECRI in the report.

In this report, ECRI recommends that the Belgian authorities take further action in a number of areas. It calls, *inter alia*, for a more determined institutional reaction against the use of racist or xenophobic discourse in politics. In order to improve equal access and opportunities in employment for foreigners and persons of immigrant background, ECRI recommends a thorough enforcement of the relevant legislation and the adoption of further initiatives. It furthermore stresses the need to address the manifestations of antisemitism and islamophobia as problems affecting Belgian society as a whole and not only some of its communities. ECRI also calls for further efforts to prevent racist or discriminatory behaviour on the part of the police and to ensure a prompt and effective institutional reaction to any manifestations of such phenomena. It formulates recommendations aimed at ensuring that the rights of asylum seekers and persons without legal status in Belgium are thoroughly respected. ECRI also stresses the need to keep the new legislation under review and ensure its effective implementation.

I. FOLLOW-UP TO ECRI'S SECOND REPORT

International legal instruments

1. In its second report on Belgium, ECRI recommended that Belgium make the declaration under article 14 of the International Convention on the Elimination of All Forms of Racial Discrimination (ICERD), enabling individuals and groups of individuals to file petitions before the Committee for the Elimination of Racial Discrimination. ECRI also recommended that Belgium sign and ratify the European Charter for Regional or Minority Languages, the Framework Convention for the Protection of National Minorities, the UNESCO Convention against Discrimination in Education and the Convention on the Participation of Foreigners in Public Life at Local Level. ECRI furthermore recommended that Belgium ratify the European Convention on the Legal Status of Migrant Workers.
2. ECRI is pleased to note that Belgium made the declaration under article 14 of the ICERD on 10 October 2000. Although work is reported to be underway with a view to signature, the European Charter for Regional or Minority Languages has not yet been signed by Belgium. The UNESCO Convention against Discrimination in Education and the Convention on the Participation of Foreigners in Public Life at Local Level have also not yet been signed.
3. On 31 July 2001, Belgium signed the Framework Convention for the Protection of National Minorities. On signing this instrument, Belgium made the following reservation: "The Kingdom of Belgium declares that the Framework Convention applies without prejudice to the constitutional provisions, guarantees or principles, and without prejudice to the legislative rules which currently govern the use of languages. The Kingdom of Belgium declares that the notion of national minority will be defined by the inter-ministerial conference of foreign policy ". On 26 September 2002, the Parliamentary Assembly of the Council of Europe adopted Resolution 1301 (2002) in which it " regrets that the Belgian authorities deemed it necessary to accompany the signature of the framework convention by such a broad reservation that it risks undermining most of the convention's provisions. If the Kingdom of Belgium decided to uphold upon ratification of the convention the reservation it made upon signature, it might be considered as a violation of the Vienna Conventions on the Law of Treaties which do not allow countries to enter reservations upon ratification of treaties which void them of their meaning "¹.
4. Belgium has not yet ratified the European Convention on the Legal Status of Migrant Workers.
5. ECRI notes that Belgium signed Protocol No. 12 to the European Convention on Human Rights (ECHR) on 4 November 2000. The necessary work for ratification is reported to be underway. On 28 January 2003, Belgium also signed the Additional Protocol to the Convention on Cybercrime concerning the criminalisation of acts of a racist and xenophobic nature committed through computer systems.

¹ PACE Resolution 1301 (2002) "Protection of minorities in Belgium", para. 4

Recommendations:

6. ECRI recommends that the Belgian authorities sign and ratify the European Charter for Regional or Minority Languages, the UNESCO Convention against Discrimination in Education and the Convention on the Participation of Foreigners in Public Life at Local Level. It also recommends that the Belgian authorities ratify the Framework Convention for the Protection of National Minorities, taking into account Resolution 1301 (2002) of the Parliamentary Assembly of the Council of Europe, and the European Convention on the Legal Status of Migrant Workers. Finally, ECRI recommends that the Belgian authorities ratify as soon as possible Protocol No. 12 to the ECHR and the Additional Protocol to the Convention on Cybercrime.

Constitutional provisions and other basic provisions

7. In its second report, ECRI expressed the hope that the constitutional amendment allowing for dissemination of printed material inspired by racism and xenophobia, including racist tracts and pamphlets, to be prosecuted in the criminal courts and not in the Assize Courts would enable a satisfactory prosecution of the authors of such offences.
8. ECRI is pleased to note that, generally speaking, such amendment has facilitated prosecutions, as reflected by the fact that legal action against a number of authors of printed material inspired by racism and xenophobia has been taken since the preparation of ECRI's second report. However, as will be mentioned below², the impact of the constitutional amendment on legal action against political parties which resort to racist or xenophobic written propaganda appears to ECRI to have so far been very limited.

Criminal law provisions

9. In its second report on Belgium, ECRI recommended the introduction of a provision establishing that the racist motivation constitutes a specific aggravating circumstance.
10. ECRI is pleased to note that the Act of 25 February 2003 "aimed at combating discrimination and modifying the Act of 15 February 1993 which establishes the Centre for Equal Opportunities and the Fight against Racism" (hereafter: Act of 25 February 2003) provides for such a specific aggravating circumstance: Articles 7-14 of the Act provide that hatred, contempt or hostility based, *inter alia*, on supposed race, on colour, on descent, on religious convictions, and on national or ethnic origin are aggravating circumstances in respect of a certain number of offences. These offences are : indecent assault and rape; murder, battery and assault; non-assistance to a person in danger; violation of the personal liberty and of the inviolability of private property committed by private individuals; harassment; insulting the honour or the reputation of a person; arson; destruction of movable property.

² *Exploitation of racism and xenophobia in politics*

11. In its second report on Belgium, ECRI also recommended further measures to raise the awareness of public prosecutors of the issues pertaining to the implementation of the legislation against racism and racial discrimination. In particular, it recommended that the efforts made since 1999 by the Centre for Equal Opportunities and the Fight against Racism (hereafter: the Centre) to provide the necessary training be encouraged.
12. The training programmes for judges and prosecutors on these issues run by the Centre have continued. These courses are only obligatory for persons who currently enter these professions. In collaboration with the Centre, the *Conseil Supérieur de la Justice* also organises awareness-raising training on these issues.

Recommendations:

13. ECRI encourages the Belgian authorities to ensure the effective implementation of the newly introduced provisions that establish racist motivation as a specific aggravating circumstance. ECRI recommends that the Belgian authorities keep the effectiveness of these provisions under review, including as concerns the exhaustiveness of the range of offences to which the specific aggravating circumstance applies.
14. ECRI recommends that the Belgian authorities further sustain the efforts of the Centre to provide training to judges and prosecutors on issues pertaining to the implementation of the legislation against racism and racial discrimination.

Civil and administrative law provisions

15. In its second report on Belgium, ECRI recommended that Belgium enhance the use of civil proceedings in cases of racial discrimination.
16. ECRI is pleased to note that the Act of 25 February 2003 introduces civil provisions against direct and indirect discrimination on a wide range of grounds, including supposed race, colour, descent, religious convictions, and national or ethnic origin. ECRI welcomes the fact that a number of provisions contained in this law reflect those recommended in ECRI's general policy recommendation No. 7 on national legislation to combat racism and racial discrimination³. For instance, the prohibition of discrimination applies to a certain number of areas, including employment both in the public and in the private sector and access, participation and exercise of an economic, social cultural or political activity opened to the public. The law also provides for a shared burden of proof in cases of discrimination, and for the admissibility of statistical data and of evidence collected during situation tests in discrimination cases. In this respect, ECRI notes that the modalities for collecting this latter type of evidence are to be determined by royal decree and that work is underway in this respect. According to the Act of 25 February 2003, the president of the court may order the cessation of the discriminatory act, the payment of a penalty in case the discriminator fails to comply with such an order as well as the publication of her/his decision in the press or its display at the premises of the discriminator. In addition to the victim of discrimination, cases can be brought by the Centre,

³ CRI (2003) 8

by relevant organisations, and by organisations representing the employees and the employers. The law also provides victims of discrimination with protection against retaliatory measures on the part of the discriminator.

Recommendations:

17. ECRI recommends that the Belgian authorities keep the new civil law provisions under review. In so doing, it recommends to take into consideration ECRI's general policy recommendation No. 7 on national legislation to combat racism and racial discrimination, especially as concerns the areas to which the prohibition of discrimination applies and the need to place public authorities (and, possibly, actors in the private sector) under a duty to promote equality and to prevent discrimination in carrying out their functions. ECRI also hopes for the swift adoption of the royal decree that is to determine the modalities for collecting evidence in situation tests.
18. ECRI recommends that training of judges as recommended above be extended to include the new civil provisions against discrimination.

Specialised bodies and other institutions

19. In its second report on Belgium, ECRI recommended that, in consideration of the difficulties encountered in proving a discriminatory act, the Centre play a role in facilitating such proof. ECRI also suggested that the Centre could be made competent to mediate between parties in criminal cases.
20. ECRI is pleased to note that the Act of 25 February 2003 strengthens the role of the Centre and other relevant organisations in proving the discriminatory act in civil cases, notably as concerns collection of statistical data and of evidence based on situation tests.
21. ECRI notes that the Act of 20 January 2003 "on strengthening legislation against racism" (hereafter: Act of 20 January 2003) expressly provides for the possibility for the Centre to carry out mediation functions as it considers necessary, without prejudice to the competence of the *Collège des médiateurs*. Even before the Act, however, it was possible for the Centre to carry out mediation functions in criminal cases. In this respect, ECRI notes that, in October 2002, the Centre has adopted guidelines on the exercise of its mediation functions and that it has since then exercised such functions in four cases.
22. ECRI notes that the Act of 25 February 2003 and the Act of 20 January 2003 introduce important changes in the competence and the mission of the Centre. The new laws extend the competence of the Centre to protect persons against any forms of distinction, exclusion, restriction or preference on grounds of sexual orientation, civil status, birth, property, age, religious or philosophical convictions, actual or future health status, disability and physical characteristics, thereby making it a more general equality body. In addition, the Centre is explicitly made competent to: collect and publish statistical data and courts' decisions as necessary for the evaluation of the implementation of the laws against racism and discrimination; receive information from the competent authorities on facts which may point at possible breaches of the laws against racism and discrimination and be informed by the authorities on the follow-up

given; receive a yearly communication by the Ministry of Justice of judicial statistics on the implementation of the laws against racism and discrimination and of the relative decisions; be informed by the Comité P or the General Inspection of the federal and local Police of the follow-up given to any situations brought to their attention by the Centre and be informed of any action taken by these institutions at their own initiative, in the fields covered by the Centre⁴. The new laws also explicitly extend the mission of the Centre to areas concerning foreigners, migration and reception and integration policies: monitoring the respect of the fundamental rights of foreigners; informing the public authorities of the nature and extent of migration flows; and developing consultation and dialogue with all private and public actors involved in the field of reception and integration policies.

Recommendations:

23. ECRI recommends that the Belgian authorities keep under review the adequacy of the human and financial resources allocated to the Centre in order to ensure that it is able to carry out its extended tasks effectively. ECRI furthermore recommends that the Belgian authorities ensure that the extension of the competence of the Centre to the grounds mentioned above does not result in reduced attention being paid to racism and racial discrimination. ECRI draws the attention of the Belgian authorities to its general policy recommendation No. 2 on specialised bodies to combat racism, xenophobia, antisemitism and intolerance at national level.

Reception and status of non-citizens

24. In its second report on Belgium, ECRI recommended the strengthening of awareness-raising measures, especially within key institutions such as the police and border control personnel in order to rectify misconceptions and combat prejudices concerning immigrants. ECRI also recommended that Belgium ensure that any measures taken with regard to immigrants and asylum-seekers, even when deemed to be sojourning illegally in Belgium, reflect the principle that they are not criminals and addressed, in this respect, the issue of the use of detention for undocumented asylum-seekers. ECRI furthermore recommended that Belgium provide clear instructions respectful of human rights and intensive human rights training to officials dealing with the removal of persons without legal status from the country.
25. The Belgian authorities report that practice-oriented courses in the field of combating prejudice and improving inter-cultural communication are in place, notably since 2002, for border control officers and personnel who are in contact with foreigners.
26. As concerns detention of persons without legal status, ECRI notes that the terms of detention provided for by law have remained the same: these persons can be detained for two months, to which two additional months may be added if identification is not possible. By decision of the Ministry of Interior, detention may still be prolonged of one month and, when a person poses a security threat for the State, of three additional months. ECRI notes, however, that a decision

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See below, *Conduct of law enforcement officials*

of the Court of Cassation in 1999 clarifies that these terms start anew at each failed attempt to remove a detainee from the country. The Belgian authorities have reported that, in practice, especially since 2001, detentions never last for the whole duration of the maximum legal term and that the average period of detention has considerably decreased in recent years. ECRI notes that, in 2002, the average period of detention was of about 35 days in the three *Centres pour Illégaux* (centres located in the country for persons without legal status), of about 14 days in repatriation centre 127bis (for asylum seekers who applied on the territory of Belgium), of about 12 days in *Transitcentre* (for passengers who cannot be admitted into Belgian territory and who applied for asylum at the border), and of about 2 days in INAD Centre (for persons arriving at Brussels airport who cannot be admitted into Belgian territory). Non-governmental organisations regret, however, the absence of clear data concerning the number of persons detained in view of deportation and, especially, the number of persons actually removed from Belgian territory.

27. While noting the reported reduction in the average period of detention, ECRI is concerned at the continuing widespread use of detention of asylum seekers in Belgium. ECRI is also particularly concerned at the use of detention in respect of accompanied and unaccompanied minors, and especially at reports that unaccompanied minors have in some cases been returned to their countries of origin reportedly without previous verification of their return to family or appropriate agencies there. ECRI notes that, in December 2002, a framework law was passed providing for the automatic assignment of a tutor to each unaccompanied minor in Belgium. However, the law is not yet in force, pending the clarification of the attribution of competences between the Federal State and the Communities on this matter.
28. Codes of conduct have been prepared for staff working in detention centres. However, the commission entrusted with monitoring the conditions in the detention centres - established by decree in 2002 - is not yet in place. It has been noted that the Commission is not competent for all detention centres – the INAD centre is excluded; that the Commission is not competent to monitor conditions of removals, when ill-treatment is reportedly most likely to occur; that it is not required to ensure a duty station in each detention centre; that the role of the Secretariat in the decisions casts doubt on the effectiveness of the mechanism; and that the seizure of the Commission has no suspensive effect on the decision to deport a detainee or to move him or her to another centre.
29. As concerns deportations, ECRI notes that in 1999 the Ministry of Interior issued instructions to the Aliens Office on the different modalities for deportations and guidelines on the methods of constraint that can be used during removals. ECRI notes that the Committee for the Prevention of Torture (CPT) has covered these issues in its report published in October 2002. Appeals against deportation orders can be filed before the *Conseil d'Etat* but have no automatic suspensive effect on the decision to deport, which can therefore be executed at any time. ECRI notes that in February 2002, the European Court of Human Rights found that, in the context of a deportation order served on asylum seekers whose claims had been declared inadmissible, this remedy did not satisfy the requirements of Article 13 of ECHR (right to an effective remedy).

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30. In its second report on Belgium, ECRI recommended that the right to vote in local elections be extended to non-EU long-term residents. ECRI notes that this right has not yet been granted.
 31. Foreigners who have committed a criminal offence may in some cases be expelled from Belgium. It is reported that the practice is not to expel certain categories of foreigners (such as those legally present in Belgium for 20 years, those who were born in Belgium or who arrived in Belgium before 12 years of age and the heads of family sentenced to a prison sentence of less than 5 years). However, non-governmental organisations have observed that it is not clear that these criteria are respected in practice and have underlined the arbitrariness of the decisions concerning the selection of persons subject to expulsion. In addition, there are reports that expulsions are executed also in respect of persons with close family ties in Belgium.

Recommendations:

32. ECRI recommends that the Belgian authorities further their efforts to provide the police and border control personnel with specific training aimed at combating prejudice concerning immigrants and at improving inter-cultural communication.
33. ECRI recommends increased transparency as concerns data on administrative detention in view of deportation, and actual deportations.
34. ECRI recommends that the Belgian authorities take urgent measures in order to ensure protection of the rights of unaccompanied minors, in particular children's rights, including through the swift establishment of a system of tutorship.
35. ECRI recommends that the Belgian authorities closely monitor the use of detention with respect to asylum seekers and take steps to ensure that it is used as a last resort.
36. ECRI recommends that the Commission entrusted with monitoring the conditions in the detention centres be established without further delay, and that its functioning and competence be kept under review taking into account the observations made above.
37. ECRI recommends that the Belgian authorities follow up the conclusions and recommendations of the CPT as concerns the use of force and means of restraint during the removal of foreign nationals by air.
38. ECRI recommends that the Belgian authorities ensure that effective remedies are available to persons who intend to challenge a deportation order.
39. ECRI reiterates its recommendation that Belgium extend to non-EU long-term residents the right to vote in local elections.
40. ECRI recommends that the Belgian authorities ensure that no expulsion order is served on foreigners in violation of their private and family life.

- **Refugees and asylum seekers**

41. Since ECRI's second report, financial assistance to asylum seekers waiting for a decision on the admissibility of their claims has been replaced with material assistance, dispensed through open reception centres. A federal agency for the reception of asylum seekers (Fedasil) was established in February 2001 and put in place in May 2002, with the aim to organise and manage the reception of asylum seekers throughout the country. The responsibility of Fedasil include the establishment and observance of the same reception standards in the different centres, some of which are run by Fedasil directly, while others are run by partner organisations. It has been noted that some of these centres are located in isolated areas with little opportunity for interaction with the outside world. ECRI has been informed by the Belgian authorities that initiatives are in place in all reception centres aimed at promoting their integration into the local communities. ECRI has also been informed by the Belgian authorities that it is foreseen that the mission of Fedasil will be defined in legislation.
42. Since ECRI's second report, a decision was taken by the Belgian government to process as priority asylum applications filed after 1 January 2001. The processing of applications lodged before that date has reportedly resumed only in January 2003. ECRI welcomes the fact that, in December 1999, a regularisation campaign was opened, which allowed, *inter alia*, a number of asylum seekers whose claims had been pending for a long time, to secure legal status in Belgium. However, ECRI notes that, since then, no further regularisation campaigns have been carried out, although the authorities have informed ECRI that they envisage regularising the position of some asylum seekers, the duration of the procedure of whose claims is considered as particularly long (4 years, 3 years for families with children).
43. Most asylum seekers in Belgium have their claims examined through the accelerated procedure. The first instance decision on the procedure to be applied is taken by the Aliens Office, on the basis of both formal considerations (such as whether the applicant has transited through a safe third country) and substantial considerations (such as whether the claim is manifestly unfounded). This decision can be challenged before the General Commissariat for Refugees and Stateless Persons (GCRSP). Figures indicate that the Aliens Office decides for the accelerated procedure for around 90% of the total amount of asylum applications and that this decision is confirmed by the GCRSP for around 70% of such total amount.
44. ECRI notes that there are no legal provisions which regulate the granting of subsidiary protection in Belgium to persons who do not fulfil the criteria for being granted refugee status, but who are in need of protection for humanitarian reasons. In the absence of such legal provisions, these persons have at present their expulsion orders suspended (non-expulsion clause). The authorities have informed ECRI that persons in situation of non-expulsion may be granted temporary complementary protection and access to the labour market on a case-by-case basis.

Recommendations:

45. ECRI recommends that the Belgian authorities ensure that the standards concerning reception of asylum seekers in Belgium are set at the level of the highest existing standards in reception centres in Belgium. It also encourages the authorities to strengthen their efforts to integrate the centres into the local communities.
46. ECRI recommends that the Belgian authorities address the situation of persons whose asylum applications have been pending for a long time without further delay, including, as necessary, through the use of further regularisation campaigns.
47. ECRI recommends that the Belgian authorities ensure that the use of accelerated procedures does not affect the right of asylum seekers to a thorough examination of their claims.
48. ECRI recommends that the Belgian authorities establish legal provisions to regulate the granting of subsidiary protection.

Representation of the Muslim community

49. In its second report on Belgium, ECRI welcomed the then newly-established Belgian Muslim Executive, as a step forward towards the practical enjoyment of the rights legally recognised to Muslims in Belgium. These rights concerned the temporal aspects of the Muslim religion, including the public financing of places of worship, for which a representative body of the Muslim communities is required. ECRI notes, however, that, with the exception of the issue of public financing of teachers of Islam in schools, no progress has been made towards the practical enjoyment of these rights since ECRI's second report. ECRI notes that a new Executive, elected by the Constituent Assembly, has been endorsed by Royal Decree.

Recommendations:

50. ECRI encourages close co-operation between the Belgian authorities and the new Belgian Muslim Executive with a view to achieving swift progress on the practical enjoyment of the rights of the members of the Muslim communities in Belgium.

Monitoring the situation in the country

51. In its second report on Belgium, ECRI recommended that an adequate system of statistical data be developed to provide detailed information on complaints of racist and xenophobic acts and their outcome.

52. ECRI has been informed that progress has been made in this area, and that the statistical tools now put in place at the Ministry of Justice enable collection of qualitative data from different levels of the criminal justice system, statistical analyses concerning the prosecution of racism and xenophobia in Belgium and, thus, an overview of the way the criminal justice system deals with these cases.
53. ECRI considers that more accurate information on the real position of different groups in society across a number of fields of social and economic life would be desirable, as it would help uncover the presence of direct and indirect discrimination or institutional discrimination.

Recommendations:

54. ECRI encourages the Belgian authorities to pursue their efforts to ensure that comprehensive data are available on the way the different levels of the criminal justice system deal with acts inspired by racism and xenophobia.
55. ECRI encourages the Belgian authorities to improve their monitoring systems by collecting information broken down according to categories such as "race", colour, religion, language, nationality and national or ethnic origin, with due respect to the principles of confidentiality and the voluntary self-identification of persons as belonging to a particular group. These systems should also take into consideration the gender dimension, particularly from the point of view of possible double or multiple discrimination.

Media

56. In its second report on Belgium, ECRI supported the follow-up of the recommendations published in 1994 by a Working Group of the General Association of Professional Journalists on information concerning the "allochthonous" population. It also encouraged the media profession to develop clear guidelines on reporting information originating from parties that resort to racist and xenophobic propaganda.
57. No general follow-up of the impact of the 1994 recommendations has been carried out. However, ECRI notes that, in a few cases, the Council of Ethics has issued warnings to journalists for disregarding such recommendations.
58. No guidelines have been developed on reporting information originating from exponents of parties which resort to racist and xenophobic propaganda, although ECRI understands that, in practice, journalists have attempted to report such information in as balanced a manner as possible.

Recommendations:

59. ECRI recommends to the media profession to continue to monitor the implementation of the 1994 recommendations concerning the "allochthonous" population.
60. ECRI also stresses that a stronger representation of persons of immigrant background in the media profession could affect positively the image of the "allochthonous" population reflected in the press.

Conduct of law enforcement officials

61. In its second report on Belgium, ECRI recommended that the Belgian authorities ensure a better institutional response to alleged acts of racism and discrimination on the part of law enforcement officials. This concerned both the courts and the non-judicial control mechanisms (exercised by the single police units and by the "Comité P"). ECRI recommended in particular awareness-raising measures for the persons responsible for internal control within the different police units, the establishment of a compulsory internal control mechanism in all police units, the adoption and enforcement of deontology and disciplinary regulations and the establishment of an obligation to inform thoroughly the complainants on the follow-up given to their complaints.
62. Since ECRI's second report, another institution competent for examining alleged acts of racism and discrimination on the part of law enforcement officials is the General Inspection of the Federal police and of the local police. ECRI notes that the Act of 20 January 2003⁵ modifies the Law of 13 May 1999 (containing the disciplinary statute of law enforcement officials) and establishes that the president of the Comité P or the General Inspector of the police are required to open investigations and, if appropriate, seize the judicial authorities, in cases where the Centre indicates a possible breach of the laws against racism and discrimination. The Comité P and the General Inspector are required to keep the Centre informed of the follow-up given by the disciplinary or judicial authorities to these cases and to those brought to their attention by others.
63. ECRI notes that the Comité P carries out thematic enquiries on issues of relevance to ECRI: for instance, it has investigated the attitude of the Brussels police *vis-à-vis* persons of immigrant background - the relevant report is not yet public at the time of writing. ECRI also notes that, as part of the general reform of the police in Belgium, each police unit is now required to have an investigation mechanism entrusted with examining allegations of misbehaviour on the part of the police officers. ECRI notes, however, that such mechanism is not yet concretely in place in all units. ECRI has been informed that a code of ethics has been prepared although it has not yet been adopted. It has also been put to ECRI's attention that the police are under an obligation to inform thoroughly the complainants of the follow-up given to their complaints.

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See *Specialised bodies and other institutions*

64. ECRI notes that the number of complaints filed with the Centre concerning racist or discriminatory behaviour on the part of the police has decreased. The Belgian authorities report that, although no precise figures are available, a general improvement is noted in the situation. However, members of minority groups and civil society organisations report that discrimination (notably discriminatory checks) racism and xenophobia on the part of police officers have continued since ECRI's second report and remain serious problems in Belgium.
65. In its second report, ECRI recommended that the authorities assess and strengthen their initiatives to improve recruitment of minority groups in the police.
66. Initiatives aimed at enhancing recruitment of persons of immigrant background in the police, notably in the form of free aptitude tests and preparatory courses targeting these persons specifically, have continued. The Belgian authorities have informed ECRI that these efforts have yielded results, although not always proportionate to the efforts deployed. Following an assessment of these initiatives, the Belgian authorities have begun to target larger groups of disadvantaged persons than just persons of immigrant background. Efforts have also been increasingly concentrated on the post-recruitment phase in order to ensure that new recruits will wish to stay in the police once recruited.

Recommendations:

67. ECRI urges the Belgian authorities to ensure that all cases of discrimination, racism and xenophobia on the part of the police are thoroughly investigated, brought before the relevant judicial and non-judicial control mechanisms, and sanctioned. It also stresses that any case of racism should be unequivocally condemned, publicly and at a high level.
68. ECRI reiterates its recommendations on the need to raise the awareness of the key actors of the criminal justice system of the issues pertaining to the implementation of the legislation against racism and racial discrimination, in order to ensure that such legislation is applied with respect to police officers when responsible for any such acts.
69. ECRI recommends that the investigation mechanisms to be established in each police unit are actually put in place in all units and that the officers assigned to investigation tasks are adequately trained on issues of discrimination, racism and xenophobia.
70. ECRI recommends that the Belgian authorities ensure that the obligation of the police to inform thoroughly the complainants of the follow-up given to their complaints is fully respected in practice.
71. ECRI encourages the Belgian authorities to consider ways for monitoring the frequency of police checks on individuals, in order to uncover any possible pattern of disproportionate checks on certain groups of the population of Belgium.
72. ECRI recommends to the Belgian authorities to pursue their efforts to recruit persons of immigrant background in the police and ensure that conditions of work, such as a workplace free from harassment, be such that these persons will wish to stay in the police once recruited.

II. NEW DEVELOPMENTS

Impact of contemporary world events on antisemitism and islamophobia in Belgium

73. Since the preparation of ECRI's second report, manifestations of antisemitism and islamophobia are reported to have increased in Belgium. Such manifestations have included verbal abuse and harassment of individuals but also public oral and written expressions, such as antisemitic slogans uttered during demonstrations, antisemitic graffiti sprayed on Jewish owned shops and publication and dissemination of printed material targeting Muslims and persons of Arab origin or members of the Jewish community. Attacks to property have also been registered, including firebomb attacks, gunshots and other acts of violence against synagogues in Brussels, Antwerp and Charleroi. Physical attacks against individuals have also taken place, sometimes with deadly consequences, as is the case of a Moroccan Muslim couple killed in the Schaerbeek district of Brussels by their neighbour in May 2002 or the killing of a young Moroccan Muslim in Borgerhout (Antwerp) in November 2002. Members of the Jewish community have also been the target of physical attacks, as illustrated by the aggression of the Chief Rabbi of Brussels in December 2001 and by the attack carried out on four Jewish youths in Brussels in March 2003. Non-governmental organisations report that discriminatory practices, especially disproportionately frequent police checks on persons of North African origin, have also been on the rise, while acceptance of Muslim girls wearing the headscarf, notably in educational institutions, has somewhat reduced. More generally, some Jewish representatives report that they experience a very serious strengthening of feelings of insecurity in recent years in Belgium.
74. ECRI notes that these phenomena have followed closely contemporary world developments, notably the events of 11 September 2001 - and the subsequent strengthened efforts in the fight against terrorism - and the situation in the Middle East. In this respect, it has been noted that there is a tendency, both at the grass root level and in public debates, to import into Belgian society conflicting situations resulting from such events at world level. In particular, there appears to be a strong tendency to read current manifestations of antisemitism and islamophobia exclusively or predominantly as intercommunity problems, notably opposing Arabs and Jews or Muslims and Christians. However, ECRI believes that antisemitism and islamophobia are not the exclusive resort of any of the many groups composing Belgian society and that they are problems of Belgian society as a whole. ECRI considers that an adequate response to these developments can only originate from concerted efforts of all relevant actors composing Belgian society, including the representatives of different communities, civil society organisations and movements, and key institutional actors, such as the persons responsible for the administration of justice. These efforts include a thorough implementation of the legal provisions against racism and discrimination in respect of all perpetrators and for the benefit of all victims, with special emphasis on the provisions against incitement to racial violence, hatred and discrimination. Concerted efforts, however, also include promotion of dialogue between all relevant actors. In order to achieve this, formal opportunities to meet and propose further action are needed. In this respect, ECRI welcomes the initiative of the federal Government to convene a national Round Table on the theme

"Live together" (Vivre ensemble), to entrust the Centre with the establishment of local co-ordination units aimed at proposing concrete actions promoting mutual respect and respect of the rule of law, and to establish a common platform bringing together the federal government, the regions and the communities to evaluate existing policies on the issue of "live together" and make proposals for further action.

Recommendations:

75. ECRI recommends that the Belgian authorities ensure the full implementation of the legal provisions against discrimination and racism, with special emphasis on provisions against incitement to racial violence, hatred and discrimination.
76. ECRI also recommends a strong intensification of dialogue between as broad a range of relevant social actors as possible, including the representatives of different communities, civil society organisations, and key institutional actors, at the federal, regional and community level. It also recommends to ensure that adequate financial resources are made available to a broad spectrum of non-governmental organisations active in the field of promoting dialogue, mutual respect and respect of the rule of law.

III. SPECIFIC ISSUES

Equal opportunities and non-discrimination in employment

77. Employment remains the area in which the Centre receives most complaints of discrimination. While a number of initiatives have been taken at the regional level, where most of the competence for employment matters lies, and at the federal level in order to combat discrimination and promote participation of foreigners and persons of immigrant background in employment, much remains to be done to ensure that persons belonging to these groups enjoy genuinely equal opportunities in employment as the rest of the population of Belgium.
78. As concerns the legal framework, in its second report on Belgium ECRI recommended that Belgium fine-tune its legal provisions against discrimination in employment, notably with a view to facilitating the proof of the discriminatory act, and establish a legal framework requiring transparent recruitment procedures.
79. ECRI welcomes the fact that the new civil antidiscrimination provisions contained in the Act of 25 February 2003⁶ apply to all aspects of employment – access to employment, self-employment or occupation, including selection and recruitment conditions; promotions; employment and working conditions, including dismissal and pay – as regards both the private and the public sector. As noted above, the Act contains provisions aimed at facilitating the proof of the discriminatory act, including the shift of burden of proof, and the admissibility of statistical data and of evidence collected during situation tests. ECRI also notes that this Act and the Act of 20 January 2003⁷ confer to the labour inspectors new competences as concerns the implementation of both the criminal and the

⁶ See above, *Criminal law provisions and Civil and administrative law provisions*

⁷ See *Specialised bodies and other institutions*

civil antidiscrimination provisions in the field of employment. ECRI also notes that, before the adoption of the new acts, collective agreement No. 38 on recruitment and selection of workers had been amended in order to ensure that candidates are treated equally and that no distinctions are made based on personal criteria that have no relevance to the work or nature of the enterprise.

80. In its second report on Belgium, ECRI also recommended further efforts to raise the awareness of employers and staff responsible for recruitment of the issues pertaining to racial discrimination and of the potential professional capacity provided by members of minority groups living in Belgium. It also recommended that the Belgian authorities promote dialogue between the different social, political and economic actors involved, in order to stimulate the adoption of new initiatives in the field of combating discrimination in employment.
81. Since ECRI's second report, a number of initiatives have been taken in these fields. At the federal level, a Multicultural Enterprise Unit has been established since July 2001 in the Federal Ministry of Employment and Occupation. The Unit aims at promoting equal treatment of foreign workers and workers of immigrant background, notably through information, awareness-raising and support initiatives. Such initiatives have so far had different targets, including the Federal Ministry of Employment and Occupation itself, the social partners - with the aim of strengthening protection from discrimination in sectorial collective agreements concluded by Joint Commissions - and the labour and social inspectors, with the aim of raising their awareness of the long-existing competences and those recently added and empower them to fulfil their tasks in this area more effectively. The Centre has launched awareness-raising campaigns against discrimination in the private sector and in the civil service and in the field of access of non-citizens to the civil service. Employers' associations have also become more proactive *vis-à-vis* recruitment of non-citizens and persons of immigrant background.
82. At the level of the regions, initiatives have been taken aimed at improving the service provided by employment and training agencies to non-citizens and persons of immigrant background, including adoption of codes of conduct and guidelines on how to deal with discriminatory employment offers. The trade unions have also been active at the regional level to raise awareness of the issues of discrimination and in promoting mutual respect on the workplace. Since 2001, in Flanders, the regional government participates in the funding of positive action plans aimed at achieving proportional representation of persons of immigrant background in the enterprises and at eliminating discrimination at point of recruitment. Efforts are made in order to ensure that a minimum yearly number of enterprises accept to undertake such plans, which are carried out by the sub-regional employment agencies in collaboration with the enterprises in question.

Recommendations:

83. ECRI recommends that the Belgian authorities ensure a thorough implementation of the new antidiscrimination provisions in the field of employment and occupation. It reiterates in this context, its recommendation on the need to ensure training of key actors in the implementation process, notably judges and labour inspectors.
84. ECRI calls for further efforts to raise the awareness of private enterprises of the issues of discrimination and of the need for the work environment to reflect the diversity of society. At the same time, similar efforts for the public sector should be continued and extended.
85. ECRI stresses the need for the adoption of more proactive measures, including the adoption of action plans with defined and measurable targets, a clear definition of responsibilities and, as appropriate, a mechanism for enforcement.
86. ECRI recommends that the Belgian authorities promote the transfer of best practices developed at the regional level throughout the territory of Belgium.

Exploitation of racism and xenophobia in politics

87. ECRI expresses concern at the continuing presence of racist and xenophobic discourse in politics in Belgium and at the increasing success of parties that resort to racist or xenophobic propaganda. ECRI also reiterates its concern that the nationalist propaganda of the Vlaams Blok contributes to fostering a climate of tension in the relations between the different regions and communities of Belgium.
88. In its second report on Belgium, ECRI noted that the amendment of Article 150 of the Constitution which allowed prosecution of cases of dissemination of printed material inspired by racism and xenophobia in the criminal courts and not in the Assize Courts⁸ could constitute an effective tool to counter political parties which resort to racist and xenophobic written propaganda.
89. It does not appear to ECRI, however, that, since the preparation of ECRI's second report, this new possibility has been used extensively. ECRI notes in particular that, on 26 February 2003, the Court of Appeals of Brussels has upheld a first instance decision which considered that a case against a number of non-profit organisations responsible for the propaganda activities of the Vlaams Blok was to be tried before the Assize Court, and not a criminal court, because of the political nature of the trial (in spite of the modification of Article 150 of the Constitution, the latter still provides that political crimes are subject to the competence of the Assize Courts). ECRI notes, however, that, on 18 November 2003, the Court of Cassation overruled the decision of the court of Appeals of Brussels, and that the case in question will therefore be tried before another Court of Appeals.
90. ECRI notes that the Centre has concluded an agreement with the Postal Service which, in the event of doubt as to whether material handed over to the Postal Service for distribution is in conformity with the legislation against racism and discrimination, enables the Postal Service to stop the materials from being delivered and, if necessary, ask the Centre for its opinion. The opinion must be

⁸ See above *Constitutional provisions and other basic provisions*

given within 48 hours of the request, although it is not binding on the Postal Service. ECRI notes that this possibility has been used in several occasions. However, in 2000 the *Conseil d'Etat* ruled that the agreement is not applicable in the pre-election period.

91. In its second report on Belgium, ECRI also encouraged the Belgian authorities to step up their efforts to ensure that public financing is withdrawn from political parties whose members are responsible for acts of racism and racial discrimination. In this respect, ECRI noted that the implementing arrangements of the law which enabled, in certain circumstances, the *Conseil d'Etat* to rule on the withdrawal of public financing from parties which show manifest hostility towards the rights and freedoms guaranteed by the ECHR⁹ still had to be laid down in a royal decree discussed and agreed on by the Cabinet of Ministers.
92. At the time of writing, however, such implementing arrangements have not yet been adopted, and the relevant law can therefore not yet be applied.

Recommendations:

93. ECRI recommends an intensification of the institutional reaction against exploitation of racism and xenophobia in politics.
94. In particular, ECRI recommends that the Belgian authorities ensure that prosecution of acts inspired by racism and xenophobia, including the dissemination of racist or xenophobic printed material, is secured in respect of all authors of such material, including political parties or organisations linked to these.
95. ECRI also recommends to the Belgian authorities to adopt without further delay the implementing arrangements enabling the *Conseil d'Etat* to rule on withdrawal of public financing from parties that show manifest hostility towards the rights and freedoms guaranteed by the ECHR.

⁹ Article 15 ter of the Law of 4 July 1989 on limitation and control of electoral expenditures for elections to the Federal Chambers and on financing and accountancy of political parties.

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APPENDIX

The following appendix does not form part of ECRI's analysis and proposals concerning the situation in Belgium

ECRI wishes to point out that the analysis contained in its third report on Belgium, is dated 27 June 2003, and that any subsequent development is not taken into account.

In accordance with ECRI's country-by-country procedure, ECRI's draft report on Belgium was subject to a confidential dialogue with the Belgian authorities. A number of their comments were taken into account by ECRI, and integrated into the report.

However, following this dialogue, the Belgian authorities requested that the following viewpoints on their part be reproduced as an appendix to ECRI's report.

THIRD REPORT ON BELGIUM

Observations of the Belgian authorities

Observations of the “Service public fédéral de la justice” (Federal Justice Department)

1. Legislation, Fundamental Rights and Freedoms Department - Human Rights Department

89.

More detail needs to be given in this paragraph of the exploitation of racism and xenophobia in politics:

A court case involving the interpretation of Article 150 of the Constitution as amended on 7 May 1999 is currently pending before the Court of Cassation.

Prior to the amendment, the Assize Courts had jurisdiction, under Article 150, for press and political offences. As the relevant unwieldy process involved a meeting of the Assize Court, this meant de facto impunity for such offences.

Article 150 was therefore amended in order to prevent that impunity. An exception was introduced in 1999 to the Assize Court's jurisdiction over press offences of a racist nature. Such offences are thus subject to trial by the criminal court.

However, in the case which is currently pending before the Court of Cassation, the courts of first instance and appeal ruled that the case was a matter for the Assize Court, and not for the criminal court. The parties involved were non-profit making organisations responsible for Vlaams Blok propaganda. Thus the view was taken that the offence was a political one, so still within the jurisdiction of the Assize Court.

It should be noted that this interpretation conflicts completely with the long-established and constant case-law of the Court of Cassation, which interprets the concept of the political offence in a highly restrictive manner. It requires the offence to have both a political motive and to have had an actual effect on the political system of the state. The parties claiming damages, the Crown Counsel's Department and the Centre for Equal Opportunities therefore decided to appeal to the Court of Cassation.

- Finally, it should be noted that a number of issues raised by the ECRI are taken up in the government agreement suggesting action to be taken in response (cf below).

2. Police Department

14, 18.

It is expressly stated in the training programme for judges and judicial service trainees on combating racism and discrimination that the requisite attention will be given to the new ideas underlying the recent legislative amendments (law of 20 January 2003 and law of 25 February 2003).

54.

In the comments on this specific point, the report states that progress is currently being recorded because the statistical instruments of the Federal Justice

Department make it possible to collect qualitative data at the various levels of the criminal justice system. No express reference is made to the statistical analysis of the detection and prosecution of racism in Belgium.

The statistical analysts took 19 February 2003 as the cut-off date for their memorandum. This contains a detailed examination of "the way in which the prosecuting authorities, in their prosecuting function, and the criminal courts, in their function of penalising criminal acts, play their role in respect of racism". Attention is then given to the large numbers of racist cases in the criminal justice system (on the basis of each initial report or each complaint made to the prosecuting authorities, to their processing, to outflow (the progress of cases and, where applicable, the decisions already taken by the prosecuting authorities), and, finally, to the persons tried for racism.

72.

Explicit reference may be made in this sphere to the activities of the Equal Opportunities Unit in the Internal Relations Directorate of the Directorate General of Human Resources of the Federal Police.

Hitherto, the Unit's activities consisted mainly of attracting the largest possible number of Belgians of foreign origin to serve in the police (ie any naturalised person with at least one parent of foreign origin; Belgians of either European or non-European origin). A second task that will be further developed in the future is the integration of different cultures, with members of the police having their attention drawn to the advantages of an intercultural society.

The Directorate General of Human Resources was awarded the Turkish Union of Belgium's integration prize in April 2002 for its dynamic work in the context of its diversity policy. This prize was awarded for the efforts made to recruit Belgians of Turkish origin to the police and to integrate them.

Furthermore, several local police areas are also engaged in diversity initiatives. The Diversity Unit of the Antwerp local police force is carrying out awareness-raising activities relating to diversity (aimed at five target groups, including immigrants). These are initially internal awareness campaigns, but the intention is also to send a signal to citizens.

Government agreement

Most of the problem areas singled out by ECRI are covered by the federal government agreement:

- a. The government will see to it that an intercultural society develops and will encourage integration and stimulate emancipation;
- b. All the necessary attention will be given to improving the reception of new migrants, both adult and minor;
- c. Racism and discrimination will be combated as effectively as possible;
- d. The fight against discrimination based on candidates' origin in the employment sphere will be stepped up;
- e. The government will endeavour to implement a humane and realistic asylum policy;
- f. An open dialogue will foster a better organisation of Islam.

Observations of the Federal Department of the Interior

1. Integrated Police Department - Administrative and Technical Secretariat

70.

It has to be said, where the recommendation that complainants be informed by the police is concerned, that a specific procedure for centralisation and analysis of complaints (described in paragraph 2.1.4 of the document at appendix I) has been introduced for the federal police, the same central service systematically providing complainants with information about the follow-up of their complaints by the department or structure complained of.

72.

The “Equality of Opportunities and Diversity” Department of the Directorate General of Human Resources has, since April 2001, been responsible for devising and coordinating measures to promote diversity within the police. On the basis of a multidisciplinary approach and of an open attitude to all the stakeholders, a programme of activities, both internal (the police as an employer) and external (the police as a public service), has been developed so as to create a police culture which encompasses diversity.

The efforts made, through targeted information and specific support, to promote the recruitment by the police of Belgian nationals of foreign origin are now backed up by the particular attention paid to their subsequent integration with a view to preventing any possible workplace discrimination.

In the same spirit, the previous policy against sexual harassment has been broadened to include violence and psychological harassment, so that an integrated and comprehensive policy is pursued in this area as well.

2. Directorate General of the Aliens Office

33.

The Aliens Office, like the government, has clear information about the number of aliens detained with a view to deportation and the number of persons effectively removed from Belgian territory.

Monthly statistics and annual reports for each centre are provided to non-governmental organisations on request.

35.

Asylum-seekers are not held purely and simply because they have requested asylum.

The law on aliens is strict about the circumstances in which an asylum-seeker may be held:

- Refugees who present themselves at the border without the requisite documents for lawful entry in to Belgian territory and who make their asylum application at the border may be detained while the admissibility of their application is being considered (Article 74/5 of the law of 15 December 1980);

- The law also allows refugee asylum-seekers in respect of whom Belgium considers that it does not have competence in pursuance of the Convention Implementing the Schengen Agreement to be held for as long as is necessary for the state deemed competent to issue a laissez-passer (Article 51/5);

- Refugee applicants who submit their application within Belgian territory and whose urgent application is under examination may be detained if the Minister considers that exceptionally serious circumstances justify that detention (Article 63/5);

- Like any alien in an unlawful situation, refugee asylum-seekers whose application has been rejected may be detained for the purposes of deportation from Belgian territory (Article 74/6).

36.

The procedure and operating rules of the commission and the permanent secretariat referred to in Article 130 of the royal decree of 2 August 2002, which sets down the arrangements and operating rules for closed detention centres, were laid down in a ministerial decree of 23 September 2003.

The commission responsible for dealing with individual complaints by persons held in closed detention centres started work following publication of the ministerial decree appointing its members (Moniteur belge, 28 October 2003).

38.

Those asylum seekers whose applications have been deemed inadmissible by the Aliens Office may submit an urgent appeal with suspensive effect to the CGRA (General Commissariat for Refugees and Stateless Persons).

If the CGRA rejects such an appeal, on the grounds that an asylum application is ill-founded, an appeal with suspensive effect may be lodged with the CPRR (Permanent Commission for Refugee Appeals).

If an alien lodges an extremely urgent appeal to the Conseil d'Etat, the policy (as instructed by the Minister) is not to execute the measure decided against him or her until such time as the Conseil d'Etat has taken its decision.

40.

Articles 20 and 21 of the law of 15 December 1980 already provide for certain conditions and for the family situation to be taken into account.

When a ministerial decree is adopted to return a person to his or her country of origin, or when a royal decree on expulsion is adopted, an attempt is always made to strike a fair balance between the alien's right to respect for family life and the protection of public safety and national security, in accordance with the case-law of the European Court of Human Rights relating to Article 8 of the European Convention on Human Rights.

The possibility of amending and improving the relevant statutory provisions is nevertheless under consideration.

It should be noted that no royal decrees on expulsion were adopted in 2003.

46.

Belgium does not envisage a collective decision to regularise the residence of persons whose asylum applications have been under examination for several years. Thus no new regularisation campaign is planned. Applications will therefore be examined on a case-by-case basis.

47.

Aliens whose asylum applications are being examined for admissibility by the responsible Belgian authority retain the possibility of lodging an appeal with suspensive effect to an independent quasi-judicial authority. This guarantee continues, even if the admissibility of their applications is being examined under an accelerated procedure.

48.

Where subsidiary protection is concerned, the Belgian authorities are currently awaiting approval of the Council directive laying down minimum standards for the qualification and status of third-country nationals and stateless persons as refugees, or as persons who otherwise need international protection.

