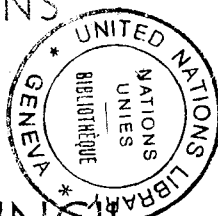
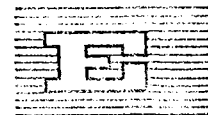


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COMMISSION ON HUMAN RIGHTS
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PERIODIC REPORTS ON HUMAN RIGHTS

Reports on freedom of information, for the period
1 July 1970-30 June 1975, received from Governments
under Economic and Social Council resolution 1074 C (XXXIX)

BELGIUM

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I. General policies and significant developments with regard to the freedom to seek, receive and impart information and ideas through any media and regardless of frontiers

In Belgium everyone has the right to freedom of expression. This right includes freedom of opinion and the freedom to receive or communicate information or ideas without any interference from the authorities and regardless of frontiers (cf. the following provisions of the Constitution: article 6b, article 14, article 18, article 59b, paragraph 7, article 96 and article 98, the texts of which are given in an annex).

As the exercise of these freedoms involves duties and responsibilities, it can be subject to certain formalities, conditions, restrictions or sanctions, which are provided for in the laws and are necessary in a democratic society to protect national security, territorial integrity, public safety or public order or to prevent crime, protect health and morals and the reputation or rights of others, to prevent the divulging of confidential information or to guarantee the authority and impartiality of the judiciary.

Freedom of information has been considered essential ever since the Belgian State was founded.

The Provisional Government's Order of 16 October 1830 on freedom of the press, freedom of speech and education, provides that every citizen is free to profess and impart his opinions. It repeals all previous provisions to the contrary.

The Decree on the press of 20 July 1831 provides (articles 5 and 6) that anyone accused of a libel against the authorities or their agents will not be subject to any penalties if he adduces evidence of the allegations made. In addition, it provides that a person charged with an offence committed through the press for which the only penalty is imprisonment cannot, if resident in Belgium, be detained in custody prior to being sentenced (article 9). Proceedings against the press for libel or abuse can only take place at the suit of the party libelled or abused (article 10).

In Belgium the press is especially well protected against the State. Under the system in force, freedom of the press is a right of every citizen and is subject to no prior conditions and legal proceedings can be taken only in cases of abuse. Although preventive measures are forbidden, regulatory measures (requiring the names and addresses of authors and publishers to be given on printed matter) and prosecution for offences are permitted. Press offences enjoy special treatment: proceedings cannot be taken against the publisher, printer or distributor if the author is known and is resident in Belgium; trial is by jury (reflecting public opinion); there can be no detention in custody and unanimity is required before proceedings can be held in camera.

Article 59b, paragraph 7 of the Constitution provides that legislative measures shall be taken to prevent any kind of discrimination on ideological or philosophical grounds.

The Act of 3 July 1971 contains the following provisions:

"Article 4: A resolution reciting the facts, signed by at least one-quarter of the members of a Conseil culturel and introduced after submission of the report and prior to the final vote at a meeting open to the public, may state that the provisions of a particular proposal or draft decree which is before that Conseil culturel is discriminatory on ideological or philosophical grounds."

The Act of 16 July 1973 on Conseils culturels provides that, in implementation of articles 6 bis and 59 bis, paragraph 7 of the Constitution, decrees issued by any of the Conseils culturels may not contain any discrimination on ideological or philosophical grounds or infringe the rights and freedoms of ideological or philosophical minorities.

Note

The Conseils culturels, each in its own field, regulate by decree matters such as:

- cultural affairs;
- education, excluding matters relating to the "paix scolaire" (under the educational agreement signed by the three national parties), compulsory school attendance, the structure of education, diplomas, subsidies, salaries, and rules governing the number of pupils;
- co-operation between cultural communities and international cultural co-operation.

II. Influence of United Nations instruments

So far as principle is concerned, the Universal Declaration of Human Rights and the International Covenant on Civil and Political Rights have been particularly influential, through the European Convention on Human Rights.

With regard to UNESCO conventions, it should be mentioned that on 22 October 1975 Belgium deposited its instruments of ratification of the following conventions:

- Convention concerning the Exchange of Official Publications and Government Documents between States (3 December 1958);
- Convention concerning the International Exchange of Publications (3 December 1958).

III. Legislative and other measures adopted during the period

Press

III(a)

In order to maintain diversity of opinion in the daily press, which is threatened by mergers and financial difficulties, an Act was passed on 27 December 1974 concerning the distribution of a sum provided for direct assistance to the quality newspapers. This assistance is divided among the newspaper publishers approved by a Royal Decree discussed in the Council of Ministers and issued in response to the considered opinion of the Belgian Newspaper Publishers' Association.

A royal Decree of 20 January 1975 determined the criteria and conditions governing the application of this law. Each publisher is required to have produced a newspaper under the same name for at least 250 days, with average sales of at least 7,500 copies daily. This calculation is made on the basis of circulation and distribution criteria established by the Centre d'information sur les média (C.I.M.).

III(e)

The establishment of press councils, which would be responsible among other things for maintaining a high standard of professional ethics among journalists, has been studied in the Council of Europe and at a round-table conference held under its auspices in Stockholm late in 1974. However, nothing has been achieved with regard to this matter during the period under review, although those concerned are watching developments with interest.

Radio and television

III(b)

Derogations from the European Agreement on the protection of television broadcasts were made by the Royal Decree of 22 March 1972. The aim is to facilitate the transmission of wired television to the public, and the recording of broadcasts or stills for private use or exclusively for educational purposes.

In connexion with the Act of 18 May 1960 on the status of broadcasting, studies took place with a view to giving legal standing to the right of notification (provided for in an internal regulation since 1969) for persons affected by the erroneous reporting of facts or whose honour has been impugned. This right corresponds to the right of reply existing in the case of the press, and it will be adapted to the technical characteristics of radio and television.

IV. Limitations upon the exercise of freedom of information

(a) Protection of the reputation, rights and freedoms of others, including protection against interference with privacy

1. The change in public attitudes has favoured the introduction of information about contraception, hitherto prohibited on pain of penal sanctions.

The last three paragraphs of article 383 of the Penal Code, by which the manufacture, display, possession or sale of articles specially designed to prevent conception was prohibited, as was publicity advocating contraceptive methods, were accordingly repealed by the Act of 9 July 1973.

At the same time, subsidies were granted to pre-marital and marriage guidance centres; one of the aims of this is to disseminate information about matters such as birth control and the use of contraceptive methods.

2. During the period under review, studies were carried out with a view to the early submission of a bill on the protection of certain aspects of privacy. Its main purpose is to prohibit unlawful listening devices and photography and to arrange for the protection of privacy in the case of data banks. 1/

3. Various measures have been taken in connexion with respect for the privacy of prisoners. The Ministerial Decree of 12 July 1971 prohibits persons responsible for surveillance during prison visits from listening to conversations. Journalists allowed to work in penal establishments are never allowed to take pictures in which prisoners can be recognized.

A circular dated 5 March 1975 states that when cells are being inspected, letters found there may not be read.

Lastly, the Ministerial Order of 7 April 1975 provides that prisoners may write an unlimited number of letters and that steps must be taken to ensure that discretion is applied in examining correspondence.

V. Action with a view to ensuring that freedom of information and access to information is enjoyed by increasing numbers of the population without distinction of any kind

1. Every year the public reception organization for migrant workers, in co-operation with private bodies, organizes an "Immigrants' Week", the aim of

1/ The text of the bill is available for consultation in the Secretariat.

which is both to encourage immigrant associations and to make the local population aware of immigrants' problems. The Ministry of Employment and Labour acts as co-ordinator. Provision is also made in the budget of that Ministry for grants to events held with a view to bringing about a spirit of mutual understanding between between migrants and Belgians.

2. In recent years radio and television broadcasts for migrant workers have increased. Their purpose is both to inform and to entertain, and the broadcasts are made in the languages most widely spoken by foreign workers.

3. Television for schools, which in Belgium dates back to 1962, is also becoming more important and better organized. The number of programmes is increasing and they cover a wider range; they are designed for nursery schooling, the three grades of primary education and the different stages in secondary education. There is full and constant co-operation between teachers and the television authority.

A great quantity of information is widely distributed in the form of illustrated index cards, brochures and working papers, intended for both teachers and pupils, to supplement and drive home the impact of school television broadcasts.

Le Service de la Femme (Women's Service)

(a) Establishment

On 27 January 1975 at the Palais d'Egmont at Brussels, during the ceremony to mark the opening of "International Women's Year", it was announced that a Service de la Femme was to be set up. This service was officially inaugurated on 24 February 1975.

The Service is responsible for:

- collecting all the available information and documentation about the present position of women in Belgium and their grievances, complaints, aspirations and wishes in this regard;
- bringing to light any discrimination in the public service, of which women consider themselves to be the victims, and taking the matter up with the departments responsible;
- providing useful information about women's rights to anyone who may ask for it.

The Service was to undertake these responsibilities for an experimental period of one year.

Following this "experimental" year, the Government was to decide whether or not to continue the Service and which department was to control it. The answer to both questions would depend on the activities which the service would and could carry out during this first year and by the problems associated with it.

(b) Working method

The "Service de la Femme" therefore had to be given the practical capability of taking effective action.

The Service could be consulted by telephone, by letter, or, if necessary, through a personal visit, eight hours a day, five days a week. Files were opened on all the questions asked and problems raised. Whenever possible, the Service gave an immediate reply itself. In other cases, the problems were referred to the competent bodies and Government departments responsible. To ensure that contacts between the various Ministries were as flexible as possible, each Minister in the Government appointed an official responsible for co-ordination between the Ministry concerned and the Service de la Femme. This enabled the latter to follow the progress of each case through to its conclusion.

(c) Activities

Any account of the issues with which the Service de la Femme had to deal must necessarily be incomplete. The problems presented are bound to be as varied as human nature itself. From among the countless applications to the Service de la Femme - there were already more than 1,500 barely six months after it started - we shall only mention here a few of the most outstanding cases: unmarried women living alone, alimony, adoption leave, divorce, employees' survivor pensions, part-time work, evaluation of a woman's work in the home, unemployment benefit, reception centres for children, crèches, and the status of domestic staff.

1. One important conclusion is the growing interest in women's emancipation. International Women's Year has undoubtedly contributed greatly to this.

For example, the Service de la Femme received many questions and a great deal of information about the position and legal status of women and so forth, both from young people and from teachers and schools wishing to draw attention to these matters in the class-room.

It is especially important to create an awareness among young people, the new generation on whom progress in the movement for women's emancipation will largely depend.

2. On the whole, the problems brought to the notice of the Service de la Femme did not reveal any cases of "new" or "previously unknown" legal discrimination on the part of the bodies concerned. The few remaining legal discriminatory measures are gradually being eliminated, as in the case of the forms of marriage contract, for example, which are the subject of very recent legislation. The Service de la Femme came across a certain number of cases of de facto discrimination as a result of which, in principle, women do not enjoy opportunities equal to those of men owing to the inadequacy of women's organizations, for example, or to problems of professional training and re-training, etc.

Such de facto discrimination against women can only be eliminated by a change in mentality. The action of the United Nations in declaring 1975 International Women's Year, the international congresses and seminars and the day-to-day activities of women's organizations are important factors not only in arousing the interest of the population as a whole, but also in giving practical effect to the progress achieved in terms of the law.

3. Many of the complaints received by the Service de la Femme actually related to gaps in our social legislation. Take, for instance, the problems facing some single women living alone. Here it is not a case of discrimination against women in the full sense of the word - for the same regulations apply to men too - but of the traditional pattern of their roles in society, the frequent lack of training among women, the function systematically assigned to women of providing assistance and care, the result of which is that, in practice, many more women than men accordingly find themselves in straitened circumstances that are not covered by any existing social regulations or legislation. The activities of the Service de la Femme in this connexion are important, not only because the Service was a kind of last resort for a certain number of people in need, to whom it tried to give every assistance possible, but also because it drew the attention of the competent government departments to these cases, with a view to the amendment of existing legislation.

4. Lastly - and this is perhaps the most important conclusion to be drawn from the activities of the Service de la Femme - it is above all among women that one finds evidence of an astonishing ignorance of women's rights and duties.

When it is realized how complex life itself has become, and how divergent are the paths followed by the various social and administrative services, it becomes clear that the public service ought to play a greater part in providing information.

It should be noted, moreover, that this lack of information is greatest among women working at home, who have traditionally allowed themselves to be guided by their fathers or husbands.

This is no doubt because women belonging to this group havenot had the social contacts which necessarily come the way of women working outside the home.

Information, training and education are however essential if women are to be able to assume their responsibilities both inside and outside the domestic context. The activities of the Service make it clear that the schooling women receive does not prepare them adequately for assuming their responsibilities in married life, just as men are no better prepared by their schooling for their position later on in the family. Consequently the need for a permanent flow of information is more than ever apparent.

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CONCLUSION

At the beginning of 1976, therefore, the Government came to the conclusion that the Service de la Femme had played an important role in 1975 and that its continuation was justified. From being an "experimental" service, it became a permanent one, available to all.

The service was then divided into Dutch-speaking and French-speaking sections (the latter was amalgamated with "Interfemmes", a voluntary service which had existed for a number of years and which will be strengthened by official help)

placed under the control of the Dutch-speaking and French-speaking Ministers of Culture respectively. Since popular education and permanent training fall within the competence of the Ministers of Culture, they can draw up proposals offering more training opportunities to women. Thus, for example, the present Government programme provides for the creation of a Fonds de développement populaire. Through this fund, it has even proved possible to provide training opportunities for women working at home.

It goes without saying that the aspirations and problems submitted to the Service de la Femme are an important source of information for the Departments of Culture, which wish to learn what women's real needs are.

Fruitful co-operation between the Service de la Femme and the Departments of Culture must inevitably lead to women being better informed and better trained and thus makes an important contribution to their real emancipation.

ANNEX

PROVISIONS OF THE CONSTITUTION

Article 6 bis

The enjoyment of the rights and freedoms granted to Belgians must be assured without discrimination. To this end, the law and the decree guarantee in particular the rights and freedoms of ideological and philosophical minorities.

Article 14

Religious liberty and the freedom of public worship, as well as free expression of opinion in all matters, are guaranteed, unless crimes are committed in the use of these liberties.

Article 18

The press is free; no censorship shall ever be established: no caution money shall be exacted of writers, publishers or printers.

In case the writer is known and is a resident of Belgium, the publisher, printer or distributor cannot be prosecuted.

Article 59 bis

This article deals with the creation of Conseils culturels (cultural councils). Paragraph 7 is worded as follows:

Paragraph 7. The law shall take steps to prevent any discrimination on ideological and philosophical grounds.

Article 96

Hearings in courts and tribunals shall be public unless such publicity is prejudicial to good order or morals; in such a case, the court shall make an official ruling to that effect.

In matters connected with political or press offences, a session in camera can only be ordered on a unanimous basis.

Article 98

A jury shall be empanelled for all criminal cases and for political and press offences.
