Belgium 2025

Information from: Central Monitoring Council for Prisons (CTRG-CCSP); Combat Poverty, Insecurity and Social Exclusion Service; Federal Institute for the Protection and the Promotion of Human Rights (FIRM-IFDH); Flanders Human Rights Institute (FLANHRI); Institute for the Equality between Women and Men (IGVM-IEFH); Myria (Federal Centre for the analysis of migration flows, the protection of fundamental rights of foreigners and the fight against human trafficking); Unia (Interfederal centre for equal opportunities and opposition to racism and discrimination)

This country-specific report was coordinated by the Federal Institute for the Protection and Promotion of Human Rights (FIRM-IFDH). It was co-authored by four ENNHRI members: FIRM-IFDH, Unia, Myria, and the Combat Poverty, Insecurity and Social Exclusion Service, as well as three public institutions with human rights remit that are not members of ENNHRI : the Central Monitoring Council for Prisons (CTRG-CCSP), the Flanders Human Rights Institute (FLANHRI) and the Institute for the Equality between Women and Men (IGVM-IEFH).

Belgium 2025

Information from: Central Monitoring Council for Prisons (CTRG-CCSP); Combat Poverty, Insecurity and Social Exclusion Service; Federal Institute for the Protection and the Promotion of Human Rights (FIRM-IFDH); Flanders Human Rights Institute (FLANHRI); Institute for the Equality between Women and Men (IGVM-IEFH); Myria (Federal Centre for the analysis of migration flows, the protection of fundamental rights of foreigners and the fight against human trafficking); Unia (Interfederal centre for equal opportunities and opposition to racism and discrimination)

Independence, effectiveness, resilience and establishment of NHRIs

International accreditation status and SCA recommendations

Belgium currently has two NHRIs accredited with B-status, signifying partial compliance with the Paris Principles.

In March 2023, the SCA accredited FIRM-IFDH with B-status. At that time, the SCA included recommendations in relation to the NHRI's human rights mandate, annual report, pluralism, selection and appointment, and adequate funding. Further information on the recommendations and the actions undertaken in follow up are detailed in the section below.

When the SCA accredited Unia with B-status, it included recommendations in relation to human rights mandate, interaction with the international human rights system, selection and appointment, full-time members, and functional immunity.

FLANHRI was created in 2022 with a broad human rights mandate within the competences of the Flemish Region and the Flemish Community. FLANHRI works in collaboration or in complementarity with other public institutions, both at the federal and the regional level.

Follow-up to international and European actors' recommendations on NHRIs and relevant developments

FIRM-IFDH

In March 2023, GANHRI's Sub-Committee on Accreditation (SCA) accredited FIRM-IFDH with a B-status. It formulated **two core recommendations**:

- An amendment to FIRM-IFDH's enabling law, in order to **expand and strengthen its mandate beyond the federal level**. An inter-federalisation of FIRM-IFDH's mandate can only be achieved through a cooperation agreement between state governments and the federal government. However, despite being mentioned in the 2020, the inter-federalisation has not taken place and the recommendation remains **unimplemented**. FIRM-IFDH continues to advocate for its inter-federalisation. Both the 2025-2029 Federal Government Agreement and the 2024-2029 Flemish Government Agreement mention the government will aim for A-status through a cooperation agreement. the inter-federalisation has not taken place and the recommendation remains **unimplemented**. FIRM-IFDH continues to advocate for its inter-federalisation. Both the 2025-2029 Federal Government Agreement and the 2024-2029 Flemish Government Agreement mention the

government will aim for A-status through a cooperation agreement.
- An amendment to provide FIRM-IFDH with **unannounced and free access to inspect and examine any public premises**, such as places of deprivation of liberty, as well as any documents, equipment, and assets without prior notice. This recommendation has been **partially implemented** : the Act of 21 April 2024 grants **free and unannounced access to all places of deprivation of liberty**. However, this access is limited to the scope of the mandate of the Prevention Mechanism (NPM).

The SCA also formulated **four additional recommendations,** which were **mostly implemented**:

- To ensure that **FIRM-IFDH's annual report** be subjected to public scrutiny. The Act of 21 April 2024 provides that it is sent and discussed in the federal Parliament (art. 19).
- To ensure that the **principles of pluralism and diversity** are reflected in its composition and/or work, and implemented in practice. FIRM-IFDH's enabling law now explicitly mentions it.
- To require **broad consultation and/or participation**, including of civil society organizations, in the application, screening, selection and appointment process to **FIRM-IFDH's board of directors**. This recommendation was also implemented by the Act of 21 April 2024 (art. 11).

Finally, as the SCA recommended, FIRM-IFDH advocates for the **financial resources necessary** to ensure it can effectively carry out its mandate.

Unia

During the 2024 elections campaign, several political parties (Parti socialiste p. 678; CD&V p.82, OpenVLD) included in their programs that a human rights institution in Belgium should obtain the A-status. Given the fragmentation of institutions in Belgium, inter-federalisation is necessary to obtain A-status. The 2025-2029 Federal Government Agreement states that: "Efficient accessibility and service for citizens are essential. Collaboration with the country's human rights institutions must be maximised in the interests of those seeking justice. Through a cooperation agreement, we are aiming for A-status for the country. The remit of each institution must be clearly defined. [...] We will reduce Unia's funding by 25%."

NHRI follow-up on the recommendations issued by European actors

FIRM-IFDH provided (informal) input and recommendations to the Belgian administration participating in the Steering Committee for Human Rights (CDDH), which held dedicated meetings on the implementation of Council of Europe's Recommendation CM/REC(2021)1, on the development and

strengthening of effective, pluralist and independent national human rights institutions. As some of these recommendations aligned with the SCA's recommendations regarding FIRM-IFDH, some progress has been made. Those progresses include more guarantees for pluralism in the appointment and composition of the decision-making body, access to premises and information, as well as the protection of its independence.

Regulatory framework

Core mandate

FIRM-IFDH

On 21 April 2024, the federal Parliament adopted an Act modifying FIRM-IFDH's enabling law. The Act established a torture prevention mechanism (NPM) at the federal level within FIRM-IFDH, in accordance with the Optional Protocol to the Convention against Torture (OPCAT). The NPM is now a separate department within FIRM-IFDH with specific duties regarding the situation of persons who have been deprived of their liberty. This mission is carried out in close collaboration with specialized institutions such as CTRG-CCSP, Myria and the Standing Police Monitoring Committee. In addition to the establishment of the NPM, the Act of 21 April 2024 also brought changes to FIRM-IFDH's general mandate.

Unia

The anti-discrimination legislative framework within Unia's remit has changed since January 2024. Both the Brussels Region (Joint Decree of 4 April 2024) and the French Community (Decree of 16 May 2024) have significantly strengthened their anti-discrimination legislative frameworks, following earlier changes brought to the Walloon (2019) and federal (2023) anti-discrimination framework. The following forms of discrimination are now also prohibited at these levels:

- intersectional discrimination (except in the Walloon Region);
- discrimination by association;
- and discrimination based on a previous state of health.

Furthermore, the new Brussels Equality Code now covers reasonable accommodation by association and the federal and French Community laws have tripled lump-sum compensations for victims of discrimination outside employment relationships.

Unia was also excluded from a major legislative change, namely from joining the new OPCAT-mechanism created by the Act of 21 April 2024,. Unia actively participated in numerous preparatory consultations on the establishment of a NPM in Belgium. Its skills and expertise in the field of disability (in prisons) and

internment have always been recognized.

FIRM-IFDH together with CTRG-CCSP, Myria and Unia adopted a concerted joint approach that served as the basis for the bill to create the NPM at federal level. However, following an opinion from the Council of State (requesting a revision of its cooperation agreement beforehand, which Unia contests), Unia was excluded from the mechanism. Unia's absence is a missed opportunity, since it already has the competence and significant expertise in monitoring the respect of the rights of persons with a disability deprived of their liberties. Its inclusion in the mechanism would have significantly reinforced the NPM's functioning and expertise. Unia has not been able to take part because the current framework only exists at the federal level. If the NPM becomes inter-federal, Unia intends to integrate it based on its CRPD mandate.

FLANHRI

The decision of the Flemish Government on the composition of and the procedure for the litigation chamber of the Flanders Human Rights Institute was published on 23 January 2024. As a result, all processes and procedures before the Litigation Chamber became operational as of February 2nd, 2024. At the same time, the "Decree *implementing the decree of 10 July 2008 containing a framework for the Flemish equal opportunities and equal treatment policy*" was amended on 22 March 2024.

Combat Poverty Service

Within the framework of the Interministerial Conference 'Social integration, Housing and Policy on large cities', a new cooperation agreement on homelessness was drawn up to replace the 2014 agreement. The mandate of the Combat Poverty Service as a general gathering point for data on homelessness was confirmed. This new agreement was approved by all (previous) governments at the end of the last legislative period. It still has to be approved by the Consultation Committee, the Council of State and ultimately the parliaments as well. At the time of this writing, the agreement still has the status of a 'draft'.

Complaints handling

FIRM-IFDH

The mandate to contribute to access to justice for individuals through complaints handling has not been strengthened since 2022. The 2020-2024 Federal Government Agreement intended to give FIRM-IFDH a complaint-handling mechanism. However, it had not implemented it at the end of the previous legislature. FIRM-IFDH advocates for a complaints-handling competence in conjunction with its inter-federalisation.

FLANHRI

The mandate to contribute to access to justice for individuals through complaints handling has been strengthened since 2022. As of mid-March 2023, FLANHRI has assumed the responsibilities previously held by the Flemish ombudswoman Gender, who had a mandate to handle complaints on discrimination based on gender, and Unia, which had a mandate to handle discrimination complaints in general (apart from gender and language). The working model of the new Human Rights Institute includes a new, tribunal-type Litigation Chamber, based on the model of the Dutch College voor de Rechten van de Mens.

In cases of (perceived) discrimination, individuals can file a complaint with FLANHRI, following initial assistance. Individual complaints may undergo mediation between parties. If mediation proves unsuccessful or impossible, FLANHRI's Litigation Chamber can render a non-binding judgment.

Strategic litigation before courts

FIRM-IFDH

Although this is not a change of legal mandate in the strict sense, FIRM-IFDH initiated its first legal action in 2024, before the Belgian Constitutional Court. FIRM-IFDH is also conducting an internal reflection on its forthcoming legal actions, which will be completed around the summer of 2025, with the aim of establishing a strong strategic litigation policy.

Providing legal assistance to individuals

IGVM-IEFH

IGVM-IEFH's mandate was strengthened by the addition of a new criterion protected against discrimination, namely 'family responsibilities' (Act of November 15, 2022). It constitutes a major step forward in the protection of all people with caring responsibilities, whatever their gender. In addition, the protected criterion of 'gender reassignment' has been reclassified as 'medical or social transition' (Act of June 28, 2023). This better reflects the reality of transgender people, as these terms cover a wider range of steps that transgender people could take as part of their gender transition.

As mentioned hereabove, Belgian legislation now recognises instances of discrimination based on multiple protected criteria. Discrimination by association, a concept already recognised in European case law, has also been explicitly enshrined (Act of June 28, 2023). This enables the relevant equality bodies to better assist victims of discrimination.

A new Act of 7 April 2023 also strengthened protection against reprisals for people who take action to remedy discrimination. This was necessary because

many people confronted with discrimination or transgressive sexual behaviour are afraid to report it (internally).

FIRM-IFDH

Since 2022, the mandate of FIRM-IFDH has been strengthened with additional competence under the federal whistleblower legislation. FIRM-IFDH provides legal support by informing whistleblowers about the law, offering personalized legal advice, and, when needed, covering part of legal fees for judicial procedures or directing them to pro bono lawyers. Since 2023, FIRM-IFDH has financially supported legal representation by lawyers for 14 whistleblowers.

Unia

Unia has set up a 'legal protection fund' to cover the legal costs of victims in vulnerable situations, enabling them to access justice and assert their rights. Given the recent decision to reduce Unia's funding by 25% (hereabove), the sustainability of this fund is not assured.

FLANHRI

As an institution with legal personality, FLANHRI has the capacity to take legal action, including a general collective right of action pursuant to article 17 of the Judicial Code.

Awareness raising

FLANHRI

FLANHRI's legal mandate includes the handling of all human rights complaints and questions within the competences of the Flemish Community and Region, by informing the public, raising awareness and conducting research. It can also advise government(s), either on demand or on its own initiative on human rights-related issues.

FIRM-IFDH

The mandate to contribute to awareness-raising has been strengthened since 2022 FIRM-IFDH has generally a broad mandate regarding awareness-raising and sensibilization aimed at the general public, but few changes have been made since 2022. In 2023, FIRM-IFDH received an additional mandate regarding whistleblowers' support and information, which included a specific mission regarding the promotion of a whistleblower-friendly culture in Belgium. Accordingly, FIRM-IFDH has launched a media campaign aimed at improving awareness of whistleblowers' role and importance in society.

Strengthening of the NHRI's regulatory framework

Unia

As mentioned above, several federated entities have recently significantly strengthened their anti-discrimination legislative frameworks: the Walloon Region in 2019, the federal level in 2023, the Brussels Region and the French Community in April 2024. Compensations for victims of discrimination has improved at the federal level and in the French Community. However, in other respects, the compensations remain too low.

The German-speaking Community has not evaluated nor adapted its anti-discrimination legislative framework since 2012. There is currently no specific protection against multiple discrimination, discrimination by association and discrimination based on a previous state of health. An evaluation procedure of the anti-discrimination Decree of 19 March 2012 is underway, to which Unia has submitted recommendations.

FLANHRI

The present lack of a formal cooperation agreement between different human rights institutions and equality bodies in Belgium hinders the protection of human rights in Belgium. The recent Flemish and Federal government agreements both include the goal to accrue A-status through a clear, inter-federal collaboration agreement.

Next to a mandate to protect and promote human rights, FLANHRI has an additional mandate to protect against discrimination under the Flemish competences. Several elements in the Directives on Equality Bodies (2024/1499 and 2024/1500) could lead towards strengthening also the protection and promotion of human rights, for example the optional role involving data collection.

FIRM-IFDH

FIRM-IFDH recommends two important changes to its regulatory framework.

First, the federal government and federated entities should sign a cooperation agreement to expand FIRM-IFDH's mandate to include matters falling under the competences of the communities and regions (with the exception of matters under the jurisdiction of the Flemish Region and the Flemish Community, for which FLANHRI is responsible). Such a cooperation agreement should also grant FIRM-IFDH the competence to handle complaints. Additionally, the agreement should expand FIRM-IFDH's NPM mandate to cover places of deprivation of liberty under the competences of the relevant communities and regions.

Second, at present, FIRM-IFDH employees have no pension rights, due to a legislative omission in FIRM-IFDH's enabling law. With members of CTRG-

CCSP’s board and the two federal ombudsmen, FIRM-IFDH employees are at present the only members of the working population in Belgium not to build up pension rights nor derived rights (for example, the right to a survivor's pension for the spouse) through their employment. The Council of State recently pointed out that this situation constituted a violation of the principle of equality. In addition, the absence of pension rights jeopardizes the independence and effectiveness of FIRM-IFDH. A law proposal was introduced into Parliament in November 2024 to fix the omission but has not yet been adopted. FIRM-IFDH believes that the bill adequately establishes a legal basis to grant and fund a statutory pension under the civil service pension scheme for its permanent staff. However, an amendment is needed to provide a retroactive legal basis. FIRM-IFDH recommends that the bill with the necessary amendment be adopted without delay.

NHRI enabling and safe space

Awareness of the NHRI’s mandate, independence and role

FLANHRI

Flemish authorities' awareness of FLANHRI's mandate, independence, and role remains limited. Although the Institute is mentioned in the most recent Flemish Government Agreement and engages with the Flemish Parliament on a regular basis, its role and activities are not yet widely recognized. This is not unusual given FLANHRI’s relatively recent establishment, in 2023.

Efforts to raise awareness have included introductory meetings with policymakers, government departments, and human rights partners. These initiatives highlight the importance of further engagement to establish the Institute's presence and role.

FIRM-IFDH

Generally, relevant state authorities have good awareness of the NHRI’s mandate, independence and role.

Access to information and involvement in law and policy making

Unia

Unia, as other human rights institutions in Belgium, operates in a complex institutional environment with six different state-level authorities. Access to information and cooperation with each of these policy makers vary, depending on several factors such as the modus operandi of a specific ministerial cabinet, the relationships previously established, the specific issue discussed, and so on. No executive power is required to provide information to Unia related to the issues within its mandate, nor is there any obligation to notify it of policy

measures or proposed regulations.

It does happen that Unia is consulted formally, for example by the legislative power, when a bill is tabled, and informally. The latter happens, for instance, with a request from a cabinet of a minister or by the administration for more explanation on a particular issue.

FLANHRI

The FLANHRI-decree (arts. 9 and 10) habilitates FLANHRI to give advice to the Flemish parliament and government on matters relating to human rights (including the right not to be discriminated). However, no legislative or executive framework determines in what way and form FLANHRI is to be consulted. The European directives on standards for equality bodies stipulate that Member States ought to ensure that equality bodies are consulted with regard to non-discrimination legislation, policy, procedure and programmes (art. 15). Parliament has to ensure simultaneously that the increased workload is not detrimental the execution of FLANHRI's other responsibilities.

FIRM-IFDH

FIRM-IFDH is frequently asked by the government or the federal Parliament to provide advice on legislative initiatives. However, the frequency and nature of this contact can vary depending on the individual official holder.

Upon its request, FIRM-IFDH is also invited to Parliament to present its reports. For example, in January 2025, FIRM-IFDH was asked by the federal Parliament to present itself to the new members of Parliament. It was also auditioned on the Belgian chapter to ENNHRI 2024 Rule of Law Report and on its thematic report on the protection of human rights defenders in Belgium.

IGVM-IEFH & Unia

Until December 2023, IGVM-IEFH and Unia received from the judiciary a copy of judgements relating to their areas of competence. They were also informed when a case concerning their areas of competence had been scheduled for a court hearing. This information is very useful for their legal functions of supporting victims of discrimination, intervening in legal proceedings relating to anti-discrimination laws and publishing anonymised court decisions. This circular – COL13/2013 on judicial anti-discrimination policy – was amended in 2024. The transmission of this information to Unia and IGVM-IEFH of notices of court proceedings has been suspended pending an in-depth examination of the issue, due to uncertainties linked to data protection. To date, the examination is still ongoing. The Institute and Unia therefore still do not have access to this information. For the same reasons, Unia and IGVM-IEFH no longer receive court decisions relating to discrimination, as the judicial authorities are currently unable to make them anonymous. Unia can therefore no longer analyze them

and publish them on its website in accordance with its mandate.

Adequate resources

FIRM-IFDH

In 2024, FIRM-IFDH was entrusted with a new NPM-related competence (hereabove), exercised in collaboration with several specialized bodies (Myria, CTRG-CCSP and the Standing Police Monitoring Committee). Exercising this new function of monitoring places of deprivation of liberty requires substantial resources. However, Parliament has only allocated limited new resources to the three specialized bodies and FIRM-IFDH for their additional NPM mandate (each received 1 FTE extra staff, instead of the requested total staff of 18,5 FTE, in addition to cuts in the requested operational costs). They have therefore to devote additional existing human resources to the intensive process of implementing the NPM and organizing monitoring visits. This lack of resources poses real problems for the functioning of the NPM.

Additionally, operational costs requested by FIRM-IFDH for its general mandate have equally been reduced, which will mainly impact on the budget for whistleblowers support, as well as on its available funding for strategic litigation and ongoing research projects.

FIRM-IFDH also requested additional budget to adhere to the pension scheme of the so-called “Pool for parastatal institutions”, its only possible alternative if the law proposal mentioned above is not adopted by Parliament. This budget was refused, with explicit referral to the law proposal. If the proposal would not be adopted within a reasonable delay, FIRM-IFDH will submit a new request to receive this budget, in addition to considering legal steps as to ensure a basic pension scheme to its staff.

Lastly, FIRM-IFDH does not have sufficient office space for its staff. FIRM-IFDH is hosted by the federal Parliament. Currently, its 24 staff members are working in 4 rooms and a small meeting room, while 3 additional staff members are to be recruited soon. Negotiations to expand office space have been ongoing for years. Additional offices in the same premises have been promised over a year ago, but practical obstacles keep delaying the expansion. This situation is appalling and a cause of stress for all staff members.

FLANHRI

FLANHRI’s budget is approved by the Flemish parliament. However, this budget is presently sourced from the Flemish Agency for Home Affairs’ resources. The budget should come directly from the Flemish parliament and be uniquely earmarked for FLANHRI.

The present budget is substantial. Nonetheless, additional duties allotted to

FLANHRI should be accompanied by a reasonable increase in its budget. Presently, according to its decree, FLANHRI's budget must be adequate to fulfil its mandate effectively and independently and cannot be decreased if its mandate remains the same (art. 40).

Unia

Some of Unia's new or reinforced missions are not accompanied by a financial reinforcement for the hiring of additional personnel. Examples include:

- Unia is tasked by decree to take an active part in several new advisory councils (council to combat racism or related to policies for people with disabilities), without any additional financial support.
- Unia is also a member of several monitoring committees for the European Structural and Investment Funds. The investment required in terms of time and expertise is substantial, although no support in terms of human and financial resources is envisaged.

Above all, the new federal government decided to reduce Unia's funding by 25%, without explanation. As a consequence, Unia will have to drastically reduce its staff and activities, which will weaken its effectiveness.

IGVM – IEFH

IGVM-IEFH did not always receive additional resources when it was given certain new legal missions. This has notably been the case for the non-consensual dissemination of intimate images, even though IGVM-IEFH receives many reports on this subject every year since 2020. In addition, the development of artificial intelligence and legislation in this area also represents new challenges. IGVM-IEFH was recently given an additional mandate in accordance to article 77 of the AI-Act, for which additional resources are requested.

Timely and reasoned responses to NHRI recommendations

FLANHRI

The FLANHRI-decree enables FLANHRI to offer advice to the Flemish parliament and government on matters relating to human rights, either on its own initiative or upon request. The advice is non-binding, but FLANHRI closely monitors the compliance with its advisory opinions. The decree also specifies that FLANHRI actively and carefully monitors the compliance with the non-binding rulings of its Litigation Chamber. Given the recent establishment of FLANHRI, it is still too early to assess whether these legal safeguards are sufficient.

FIRM-IFDH

FIRM-IFDH is regularly in contact with parliamentarians, the Government and public authorities to present and discuss its recommendations. Nevertheless, FIRM-IFDH does **not automatically receive feedback from the authorities**. While the Act of 12 May 2019 allows FIRM-IFDH to request written explanations regarding the follow-up of these opinions, recommendations and reports (art. 6 §3), the Institute has not used this possibility yet.

The Act establishing FIRM-IFDH was revised through the Act of 21 April 2024, incorporating several recommendations from the SCA. As a result, the law now foresees the annual report must be presented to Parliament (art. 19).

Functional immunity / measures to protect NHRI staff

FLANHRI

There are mechanisms in place to protect FLANHRI's leadership and staff, such as limitation of dismissal reasons and procedural guarantees. Its decree forbids members of its staff, of its board of directors and of its litigation chamber to receive instructions from the Flemish parliament, the Flemish government or any other public entity (art. 27). Members of the board of directors cannot be removed due to opinions voiced during the execution of their function. The Flemish parliament can summon the chairperson of the board of directors and the general director to evaluate FLANHRI's functioning, but the chairperson of the litigation chamber cannot be summoned.

FIRM-IFDH

FIRM-IFDH's enabling law provides for an immunity for both members of its board of directors and its staff members. The Institute and its members are immune to civil and criminal liability for their decisions, acts or behaviours in the performance of FIRM-IFDH's legal tasks (art. 18). The immunity can only be lifted in the cases provided for by law and if so, decided by the federal House of Representatives by a two-thirds majority (art. 11).

Unia

Unia's two directors have 6-year mandates, which can be extended twice. Measures are taken internally within Unia to protect employees who come into direct contact with expressions of hate, contempt and harassment.

Unia itself is regularly attacked in the media, in public and in political programs. These attacks recently led to a political agreement within the new government to reduce Unia's budget by 25%.

Threats faced by NHRIs

Unia

The program of the current prime minister's political party (NV-A, see p. 89), published ahead of the June 2024 elections, aimed at dismantling Unia. It suggested withdrawing the federal competences from Unia, which would be equivalent to reducing Unia to a pittance (80% of its budget). Additionally, it intended to withdraw the power to take legal action from Unia.

Following negotiations between the current members of the government coalition, the government decided to reduce Unia's federal funding by 25%. The 2025-2029 Federal Government Agreement provided no explanation nor argument to justify this measure.

FLANHRI

The institution has not faced threats. However, during the recent Belgian and Flemish elections, one major political party stipulated that they would "*evaluate FLANHRI's working and make adjustments where necessary*." This could be interpreted as a potential risk. Additionally, there were also negative political reactions on one of the first rulings of the Litigation Chamber (on a case which involved the use of burkinis in a public swimming pool).

NHRI's recommendations to national authorities

1. Transpose in the most ambitious way possible the European directives on the standards applicable to equality bodies, establish or strengthen their investigative powers, their ability to take legal action and the obligation to consult them in legislative and political processes.
2. Work on a cooperation agreement to expand FIRM-IFDH's mandate to include matters falling under the competences of the communities and regions (with the exception of matters under the jurisdiction of the Flemish Region and the Flemish Community, for which FLANHRI is responsible). Grant a complaints-handling competence to FIRM-IFDH.
3. Expand FIRM-IFDH's NPM mandate (OPCAT) to places of deprivation of liberty under the competences of the relevant communities and regions. Properly fund the NPM mandate, both for FIRM-IFDH and the specialized bodies.
4. Allocate additional resources for each new mandate and each extension of existing ones.
5. Establish stronger guarantees with regard to FLANHRI's budget. The budget should also come directly from the Flemish parliament, with resources uniquely earmarked for FLANHRI.

Belgium 2025

Information from: Central Monitoring Council for Prisons (CTRG-CCSP); Combat Poverty, Insecurity and Social Exclusion Service; Federal Institute for the Protection and the Promotion of Human Rights (FIRM-IFDH); Flanders Human Rights Institute (FLANHRI); Institute for the Equality between Women and Men (IGVM-IEFH); Myria (Federal Centre for the analysis of migration flows, the protection of fundamental rights of foreigners and the fight against human trafficking); Unia (Interfederal centre for equal opportunities and opposition to racism and discrimination)

Human rights defenders and civil society space

Laws and measures negatively impacting civil society and human rights defenders

Freedom of association

The 2025-2029 Federal Government Agreement announced a new legal mechanism allowing it to ban "dangerous radical organisations such as Samidoun because of their links with terrorism or the propagation of anti-Semitism". This announcement raises concerns about the possible broad interpretation of this forthcoming statute. Furthermore, the Agreement does not contain any information regarding procedural guarantees and remedies against a possible ban.

A recent proposal for a resolution at the federal Parliament suggests labelling several non-violent civil disobedience organisations, such as Black Lives Matter and Extinction Rebellion, as terrorist organisations. This would have severe consequences for their activities and funding and would allow the prosecution of individuals associated with them.

Freedom of assembly

In 2024, freedom of assembly has increasingly been under pressure, both from new measures and old issues that remain unresolved.

For instance, the new Criminal Code has outlawed the 'malicious interference with public authority' (art. 547). FIRM- IFDH, numerous civil society organisations, academics and trade unions have underlined that this measure carries a real risk of penalising legitimate political and social protest, and may thus lead to a criminalisation of human rights defenders.

ENNHRI 2024 Rule of Law report also underlined a legislative proposal from the

Belgian government to introduce a judicial ban on demonstrations in the Criminal Code, for up to five years for the individual concerned. This proposal was ultimately dropped but the 2025-2029 Federal Government Agreement has suggested reintroducing it. Furthermore, a circular from the former Minister of the Interior already allows mayors to preventively ban individuals from demonstrating in their municipality if they suspect them of threatening public order. FIRM-IFDH has argued that a circular is not a sufficient legal basis to preventively restrict freedom of assembly.

Most demonstrations in Belgium also require a permit, granted by the police authorities in consultation with the mayor. Demonstrators sometimes have to apply several weeks in advance. In the context of the armed conflict in Gaza, certain demonstrations were not authorized by the local authorities. In a ruling on 4 October 2024, the Council of State annulled a measure banning an assembly, which had been taken informally by a police commissioner instead of the legally competent mayor. Without this authorization, demonstrators risk a municipal administrative sanction up to 500,- €. Municipal administrative sanctions are also sometimes used to criminalize non-violent disobedience during demonstrations.

A dozen CSO's reported the repression of peaceful demonstrations in Belgian cities. Examples include the use of police force (water cannon, tear gas) to disperse a peaceful demonstration on the sole reason of its lack of prior authorization; the use of administrative sanctions imposed for the sole participation to a peaceful demonstration ; and the police requesting individuals wearing signs (Palestinian flag and keffiyeh) to remove them to "protect the neutrality of the public space", on pain of arrest or administrative fines, criminal investigations into the occupation of university buildings.

Finally, ENNHRI 2024 Rule of Law Report noted an increase in ex parte petitions and penalties, placing the right to strike under pressure. Emergency unilateral proceedings against trade unions appeared to have been less widely used in 2024, likely due to the lack of large-scale labour disputes, as had occurred in 2023. However, in the meantime, several higher courts have ruled on the dispute. The Constitutional Court found the legitimate use of the right to strike did not constitute a cause of absolute necessity that justified the use of emergency unilateral applications to forbid picketing. The Court found that the "ordinary" emergency procedures – that allow the defendant to be represented – were already sufficient to cover the situations brought to its attention, such as the need to restore access to a picketed store. However, a little more than a month after this decision of the Constitutional Court, the Gent Labour Court found that one of the retail chains had been justified in using the emergency unilateral procedure against the trade unions, arguing that the strike actions had been a threat to the store's property right.

Freedom of expression

Punishable written opinions disseminated in the press or on social networks are deemed “press offences”. The Belgian Constitution provides that press offences fall within the jurisdiction of the Assize Court, which involves a trial before a jury of peers (art. 150). The only exception is for press offences inspired by racism or xenophobia, which falls under the jurisdiction of “ordinary” criminal courts. Because of the difficulty and cost of an assize trial, there is a de facto impunity for all non-racist discriminatory speech written and disseminated in the press or on social networks. Hence, no judicial remedy exists to combat behaviour that hinders the freedom of expression of those targeted, who will more often be people with a protected criterion, such as women and transgender people. Victims of hate speech implement strategies of avoidance and withdrawal from public space.

Barriers in access to information and law and policymaking processes

Publicity of official documents in Belgium requires undergoing a complex procedure, with little emphasis placed on the proactivity of the administration to make documents more easily accessible. Three different publicity regimes co-exist at the federal level, and two different appeal bodies exist to challenge the refusal of access to documents by a federal authority, namely the Commission d'accès et de réutilisation des documents administratifs and the Commission fédérale de recours pour le droit d'accès à l'information en matière environnementale. Yet those two appeal bodies’ rulings are not binding for public authorities. The effectiveness of this system has been criticized. Efforts are required in order to improve the right of access to public documents. Regional appeal bodies also exist for access to documents within the competences of the Regions or the Communities, whose decisions are generally binding.

Furthermore, procedures for effective access to documents are relatively long in Belgium. This is particularly detrimental to journalists who often need swift access to certain documents due to publishing deadlines. It would be advisable to provide an emergency procedure, allowing a decision to be obtained within a shorter period of time if the circumstances justify this.

Criminalisation of human rights defenders’ activities

The criminalisation of human rights defenders’ work has also been reported as a challenge.

Limit access to funding - including from foreign sources

The previous Flemish government amended the decree on social-cultural work so that funding would have prioritised organisations that focus on integration, rather than those who “revert back to their ethic-cultural origin.” This ambiguous amendment has been the subject of much controversy and could have had a negative impact on the freedoms of association, assembly and

expression, as the decree created the risk that grant funding would become dependent on consistency with policy orientation, compromising the independence of organisations and making critical voices vulnerable to defunding. The Belgian constitutional court ruled in September 2024 that this condition was ambiguous and ought to be annulled.

In June of 2024, the Flemish Equal Rights Decree was amended. Several changes appear to positively impact the protection of human rights in Flanders, including the expansion of discrimination grounds; the facilitation of the procedure for a request for reasonable accommodation by a person with a disability; and the increased penalty that can be imposed by a judge. However, the amended decree also changed the allocation of subsidies. Civil society organisations now have to request subsidies every five years. Successful organisations are granted the status of a 'partner organisation' for the upcoming five years, leading to more financial predictability. However, for organisations that are not granted the status of 'partner organisation', the lack of subsidies for a period of five years could be detrimental to their existence.

Enforcement of judgments

Lack of enforcement of thousands of judgments – especially decisions related to the reception of international protection seekers – by public authorities has a severe and direct impact on non-governmental organisations, attorneys and magistrates working on migrant rights. It has led to a gigantic work overload for these actors – as pointed out among others by the European Court of Human Rights, which had to rule on more than a thousand of such cases – which severely impacts their functioning.

Specific support to women or LGBTQ+ HRD

IGVM-IEFH provides legal support to people who suffer discrimination in relation to their gender, in the broadest sense of the term. This can include women, transgender and intersex human rights defenders. IGVM-IEFH examines on a case-by-case basis whether a link can be made with its areas of competence. If so, it provides them with legal advice and can take action alongside them, including court action.

IGVM-IEFH and Unia are currently conducting a study in collaboration with LGBTQ+ advocacy associations to evaluate the federal action plan 'For an LGBTQI+ Friendly Belgium' 2021-2024' and propose recommendations to the new authorities. Additionally, Unia has long-standing collaboration agreements with LGBTQ+ advocacy associations.

At the end of 2022, Unia sent a contribution to the United Nations as part of its evaluation of Belgium's conformity with the CEDAW. Unia specifically underlined the higher risks of discrimination and violence for women with a disability.

FIRM-IFDH did not include specific questions regarding women human rights defenders in its recent study of the situation of human rights defenders (HRDs) in Belgium. It plans to address this gap in a forthcoming edition of its study by disaggregating data by (possible) grounds of discrimination as much as possible. This will help to highlight the unique and cumulative challenges faced by vulnerable and marginalized groups, and to develop specific measures to support these groups.

Furthermore, FIRM-IFDH conducted several focus group discussions which made clear that women human rights defenders, especially those with a migration background, are particularly targeted on social media.

Practices negatively impacting civil society and human rights defenders

Verbal or physical attacks on civil society organisations and/or human rights defenders, their work and environment

FIRM-IFDH has carried out research into the quality of civic space and the threats and pressures faced by civil society organisations. 159 organisations responded to its questionnaire, a majority of whom (55%) said they had experienced at least one form of intimidation and aggression between 2020 and 2022. These attacks could take several forms including:

- legal intimidation (24%);
- negative media campaigns (22%);
- online attacks on their digital infrastructure (19%);
- political sanctions (17%);
- destruction of material goods belonging to employees or to the organisation itself (12%);
- regular verbal attacks (11%);
- physical attacks (such as being slapped or pushed) (10%);
- and illegitimate acts of violence committed by members of the police (such as unjustified arrests, use of force disproportionate to the type of action taken) (5%).

Negative attitudes/campaigns towards/perceptions of CSO and HRD by public authorities and the general public

In 2024, an alert regarding political intervention was made to the Council of Europe's Platform to promote the protection of journalism and safety of journalists, following criticisms expressed publicly by the French-speaking Media Minister regarding a reportage titled "How to be less racist?" by the public broadcast media *RTBF.*

Intimidation, harassment or violence before, during or after protests

The French-speaking professional journalists association expressed concerns about the behaviour of certain members of the police force towards journalists in the exercise of their duty to provide information. Its statement followed the brief arrest and the seizure of video material of a journalist of Zin TV covering an unauthorized demonstration in November 2024, where physical and verbal violence from the police against the journalist were reported, including sexist and racist insults. Three persons, including the journalist, filed a criminal complaint.

Harassment in the form of excessive administrative controls or audits

Nearly one in ten organisations who replied to the questionnaire of FIRM-IFDH's research on human rights defenders report that they have been disproportionately controlled by an (official) administrative body after communicating openly on a sensitive and controversial subject or carrying out a contested action.

In one specific example, journalists at Zin TV, in Brussels, reported to the RTBF being the subject of political pressures, intimidation and a politically-motivated police investigation of their professional premises. The journalists believe these pressures are due to having hosted a conference on the criminalisation of Palestinian voices in the European Union four months earlier.

Surveillance by state actors

In FIRM-IFDH's research on the situation of human rights defenders in Belgium (covering the timespan between 2020-2022), 6% of the organisations surveyed suspected having been kept under surveillance by state actors, either by Belgian or foreign governments. Organisations report suspecting they were being targeted because the organisation's actions were sometimes prevented due to pressure from representatives of foreign governments, even though no communication on the action had yet been made; or because they were the subject of verbal attacks based on such personal data (about members of their family, for example, or private experiences) that only a secret service could discover. In addition, several organisations reported they have discovered that the phones of some members of the organisation have been put under surveillance using Pegasus spyware.

Strategic lawsuits against public participation – SLAPPs

Threats or legal and/or administrative intimidation occur occasionally and more often against staff members than against organisations (±15% compared to ±10%). At least 5% of organisations report that they have been the subject of (threats of) legal proceedings ('SLAPP') from natural or legal persons, organisations and/or public authorities who have initiated (or threatened to initiate) proceedings against them (such as claims for damages, criminal charges, injunctions, administrative actions or fines and tax complaints).

In March 2024, the Gent Court of Appeal squashed an earlier ruling that had forbidden the publication of embarrassing information regarding the president of the Flemish socialist party.

Gender aspect

A study commissioned by IGVM-IEFH shows that women candidates for political elections are subject to more aggressive and sexist behavior than their male counterparts on social networks and in real life, which can have a very real negative impact on them. It affects their well-being and their political commitment. It can also lead them to give up a career in politics, which has serious consequences for democracy in the long run.

FIRM-IFDH's study on the threats faced by civil society organisations defending human rights also show that personal characteristics – such as gender, sex, sexual orientation and physical appearance – are often the target of online and offline verbal aggression. This is specifically the case where individual employees are targeted, as reported by four out of every ten participating organisations. Employees working for organisations that defend women's rights and/or LGBTQIA+ rights are (much) more likely to be confronted with misogynistic and/or transphobic comments.

Threats and attacks on human rights defenders

In FIRM-IFDH's research on the situation of human rights defenders in Belgium (covering the timespan between 2020-2022), 8% of the organisations surveyed reported online bullying against employees. Online verbal attacks, which are initially directed at organisations, increasingly target employees, mainly via social networks. Staff members are repeatedly confronted with hate messages and insults, often in the form of online trolls. These are presumably members of the public but may also be members of extremist political parties who have organised to take coordinated online action.

More than 1 in 3 of the surveyed organizations reported offline verbal attacks. These may take the form of recurring and even threatening phone calls. Negative and threatening speeches – in which, for example, the *raison d'être* of organisations is publicly questioned – are sometimes made by politicians during parliamentary debates.

The perpetrators of those threats and intimidation attempts have a diverse profile. Threats to individuals mostly appear to come from members of the general public. Organisations (as legal entities) tend to be targeted by actors from political circles.

The area of human rights defended by the organisations influences their experiences of pressure and threats. Those working on 1) racism, migrants and refugees and/or 2) LGBTQIA+ are most often targeted, particularly by verbal

attacks. They are also more likely to be threatened, particularly by politicians. These threats take the form, for example, of proposals to defund the organisation in question in policy papers; the making and relaying of threats against them via the press and other media; or disproportionate and unforeseen monitoring of activities (by a public service responsible for employment or social security, for example).

Transnational repression of human rights defenders

Some recent concerns were raised by the Flemish journalists association about damages caused to two Kurdish-language television channels and material seized by the police during raids as part of a European Investigation Order into terrorist financing, and its possible consequence on press freedom. The Belgian state has not yet reply to the alert made on 31 May 2024 on the Council of Europe's Platform for the Safety of Journalists.

FIRM-IFDH's study on human rights defenders highlighted that 6% of the participating organisations had suspected surveillance by national or foreign security services in 2021-2022. A situation of physical aggression committed by representatives of a non-European state during a demonstration in Belgium to denounce violations committed by the leaders of this state was also reported by one of the participating organisations active abroad.

Finally, some human rights defenders in Belgium have been sued before foreign jurisdictions in cases that have been deemed SLAPPs. This raises significant concern regarding possible forum-shopping and underlines the need for an ambitious transposition of the European anti-SLAPP directive in Belgium.

Initiatives, frameworks, or policies for the protection of human rights defenders existing at the national level

In 2024, FIRM-IFDH conducted a research report on the protection of HRDs in Belgium. A majority of the consulted human rights organisations had recently faced pressure and intimidation. Many indicated that the situation as a whole had deteriorated over the past two years. More protection for the civic space and HRDs is needed. A number of concrete proposals were included in the report, some of which are presented hereunder.

There are no specific protection mechanisms such as emergency response systems or safe houses specifically aimed at HRDs in Belgium. However, in 2023, the Federal Government adopted 3 royal decrees to provide structural funding for coalitions of civil society organisations active in:

1. The fight against racism;
2. The fight against discrimination based on sexual orientation;
3. and the fight for gender equality.

Specific strategies to protect human rights defenders and/or inclusion of human rights defenders in human rights action plans

While there are no specific strategies to protect human rights defenders, three national action plans do include HRDs:

1. The National Action Plan on Business and Human Rights (2024-2029) foresees that "*companies and investors [should] respect the space for civil society organisations and provide consultation mechanisms with them*". Supporting civil society is framed as a way to gain better understanding of a market.
2. The National Action Plan in the Fight against Gender-based Violence (2021-2025) provides for integrated policies around gender equality, involving civil society organisations and for the establishment of a National Consultative Platform, composed of civil society organisations, monitoring independently the National Action Plan.
3. The National Action Plan against Racism 2021-2024 also includes several provisions regarding civil society organisations, including its consultation for drafting the plan. One of the Plan's strategic objectives is to maintain a permanent dialogue between the authorities and relevant stakeholders, especially civil society organisations.

A majority of the consulted human rights organisations in FIRM-IFDH's study on the protection of HRDs had recently faced pressure and intimidation. Many indicated that the situation as a whole had deteriorated over the past two years. More protection for the civic space and HRDs is needed. A number of concrete proposals were included in the report, some of which are presented in this chapter.

Gender aspects

FIRM-IFDH's research report on human rights defenders in Belgium found that nearly four surveyed organisations in ten reported that the incidents against members of staff were perpetrated with explicit reference to their gender or sex, especially in organisations that defend the human rights of women and the LGBTQI+-community. Amongst staff members, women, and especially women of colour, Muslim women and queer women, were found to be targeted in a disproportionate, aggressive and orchestrated manner. Any measure taken to better protect HRDs in Belgium should take this gendered reality into account.

Activities of NHRIs to support civil society space and human rights defenders

NHRI actions to promote civil society space and human rights defenders (HRDs)

Awarding of prizes

Every year, Unia takes part in juries organized by several Belgian public authorities to award prizes to projects involved, for example, in the fight against homophobia, or the fight against cyber-hate. These juries allow for the funding of local initiatives to combat racism, homophobia, etc.

Promotion Campaigns

FIRM-IFDH conducted a 'Defend the defenders' promotional campaign, from December 2023 to January 2024, through posters in public places and with specific events as well as online publications. The aim was to improve HRDs' protection by raising public awareness for the need to defend their rights.

Joint meetings and/or roundtables

In October 2024, numerous human rights organisations and public institutions met for a workshop to identify potential courses of action to support HRDs in Belgium and Europe. They also discussed FIRM-IFDH's role in the protection of HRDs and the concrete actions it could potentially take. Based on these discussions, FIRM-IFDH is currently considering several actions to be taken at national level that fall within its mandate.

FIRM-IFDH also took part and organised several events dedicated to this subject matter, including a roundtable on a protection mechanism for HRDs and civil society organisations in Europe in April 2024; a workshop on "Strengthening NHRIs' role as protection mechanisms for human rights defenders" (26 September 2024); a roundtable on civil society and threats to the rule of law (8 October 2024); and a panel discussion on standing up for human and children's rights (24 October 2024). FIRM-IFDH also became a member of an advisory group that supports a study on safeguarding civil space for a vital democracy, conducted by a consortium of Belgian universities.

Unia has set up two commissions bringing together various actors (civil society organisations, trade unions, etc.), one working in the field of anti-racism and the other related to the field of disability. The commissions meet several times a year, providing a forum for exchange and support. Unia also takes part in the general meeting of the NAPAR coalition, which brings together a large number of actors in the fight against racism. Unia also participates in several working groups and advisory councils with civil society.

Advocacy and publications

FIRM-IFDH also participated to several auditions before the federal Parliament on the subject of the protection of HRDs. On 29 January 2025, it presented the Belgian chapter to ENNHRI 2024 Rule of Law Report to the Justice Commission of the House of Representatives, including the main findings of its report on

HRDs protection in Belgium. The HRDs protection report was also presented to the federal Senate's Commission of Institutional Affairs on 3 February 2025. Additionally, the main findings of this report were presented and discussed to most major political actors in several meetings throughout 2024 and included in its main priorities for political parties ahead of the June 2024 elections.

FIRM-IFDH published a guide for whistleblowers in December 2024, together with the Federal Ombudsman. It is aimed at people who report abuse or fraud in the workplace or would like to do so. It informs whistleblowers of their rights, directs them to the appropriate contact point and support organisations (including FIRM-IFDH and the Ombudsman) and encourages them to speak out.

Unia supports local NGOs with training and cooperation about equal rights and non-discrimination. In 2024, Unia trained a.o. first line workers of LGBTQIA+ organisations, trade unions and centres promoting the integration of newly arrived migrants.

Finally, Unia and the Combat Poverty Service plan to initiate a collective complaint procedure before the European Committee of Social Rights on the grounds of digital inequality. Several human rights civil society organisations will be associated to this complaint.

NHRI actions to protect civil society space and human rights defenders (HRDs)

Monitoring

As mentioned above, FIRM-IFDH conducts research into issues relating to the quality of civic space and the pressure and intimidation experienced by human rights defenders. It ensures that its studies complement those undertaken by other observers, whether they come from other public institutions or from civil society. FIRM-IFDH also formulates recommendations aimed at HRDs and policy makers and follows up on them.

Complaints handling

Four co-authors of this report have a complaints-handling mechanism that can be used to support HRDs and civil society space if a situation falls within their competence: Unia, IGVM-IEFH, FLANHRI and Myria.

IGVM-IEFH's mission includes ensuring respect for the equality of women and men and combating all forms of discrimination or inequality based on gender. In this capacity, it assists, within the limits of its mandate, any person seeking advice on the extent of their rights and obligations, and issues opinions and recommendations to the public authorities. In 2024, IGVM-IEFH received and processed 1,126 reports as part of these legal missions. It also drafted 12 advisory opinions.

In 2023, Unia received and handled 1704 reports. It formulated 18 advisory opinions and policy recommendations. It also prepared 74 recommendations for its June 2024 Elections Memorandum.

FLANHRI receives reports and complaints about human rights issues. These reports feed into its investigatory and research priorities, which often lead to advising Flemish public entities on human rights issues.

Legal assistance

Unia joined forces with CAWaB, a collective of more than 20 associations active in the field of accessibility for people with disabilities, to ask the rail operator (NMBS-SNCB) to extend its assistance to people with disabilities to embark and disembark trains with the help of a train assistant. Owing to insufficient results from this approach, Unia has introduced a legal action against NMBS-SNCB.

In August 2024, 24 Brussels-based civil society organisations filed an application with the Constitutional Court for the annulment of one of the provisions of the 'Brussels Digital' ordinance (nr 8303). In October 2024, Unia joined them in its capacity as an equality and anti-discrimination body and as an independent mechanism responsible for monitoring the UN Convention on the Rights of Persons with Disabilities.

IGVM-IEFH's mandate also includes providing legal assistance, including in order to protect human rights defenders that face a form of gender-based discrimination, or any other of its related criteria.

Recommendations and opinions

Unia regularly joins forces with one or more associations to draw up recommendations. For example, Unia recently joined forces with CAWaB, Dito, Kannet and the National High Council for People with Disabilities to provide the negotiators of the next federal government agreement with coordinated recommendations on the accessibility of rail transport. Additionally, Unia drew up a recommendation on digital inequalities for a umbrella group of associations defending illiterate people (Lire et Ecrire).

FIRM-IFDH's Report on the quality of civic space in Belgium contain a number of recommendations aimed at better protecting civil society space and HRDs' in Belgium. Some of these recommendations were also included in FIRM-IFDH's Memorandum for the June 2024 elections, as well as in two recent Parliamentary hearings.

Capacity building

FIRM-IFDH conducted several meetings with organisations involved in human rights over the course of 2024. One of those meetings, in October 2024, aimed at allowing French- and Dutch-speaking to discuss their respective experiences

and learn from each other, as well as discussing more structural solutions to better protect human rights defenders in Belgium.

Through NHRI's specific/additional mandates

FIRM-IFDH has two specific mandates regarding HRDs' protection. First it is legally mandated to provide support to whistleblowers, including legal assistance, either directly or via attorneys. It offers training on whistleblower protection. FIRM-IFDH and the Federal Ombudsman recently published their Whistleblower's Guide to provide more information on these missions.

Second, FIRM-IFDH was appointed focal point against SLAPP by the Ministry of Justice in 2022. In this capacity, it gathers and shares information on available resources regarding protection against SLAPP. It is also participates as an observer in the Belgian anti-SLAPP working group.

Examples of NHRI engagement in this area with international and regional mechanisms in support of human rights defenders and civil society

FIRM-IFDH's research report on Human Rights Defenders in Belgium formulates recommendations grounded in various regional and international guidelines on the protection of HRDs. FIRM-IFDH presented these to policymakers in diverse forums, including parliamentary committees, bilateral meetings, and discussions on priorities for the new government. FIRM-IFDH also met and involved in its research a member of an international coalition dedicated to the protection of HRDs and civil society organisations in Europe. FIRM-IFDH will continue to follow support relevant developments at the European level.

NHRI's recommendations to national and regional authorities

Recommendations to national actors

On Human Rights Defenders:

- Ensure that the space for human rights organizations to defend and promote human rights is preserved at all times.
- Facilitate the development of human rights organizations that monitor human rights compliance and continue to foster mutual engagement between authorities and human rights organisations.
- Ensure that human rights organisations have access to stable and predictable funding. Providing organisations with resources cannot have a negative impact on their independence in the performance of their work and cannot prevent them from adopting a critical stance on policies.
- Work towards increasing awareness of the importance of human rights

and the role of human rights organisations in order to foster a culture that values the work human rights defenders do. This includes supporting educational initiatives that inform the general public about human rights issues and likeminded efforts by human rights organisations.

On Freedom of Assembly:

- Guarantee the right to protest under all circumstances by refraining from criminalizing peaceful demonstrations.
- Ensure that municipal regulations on demonstrations do not unlawfully restrict the right to protest.

On SLAPPs:

- Effectively protect human rights defenders from clearly unfounded or unlawful legal proceedings, including by an ambitious transposition of the EU anti-SLAPP Directive.

On hate speech:

- Establish a policy to combat online and offline hate messages and remove the legal obstacles that prevent their prosecution.

Recommendations to European actors

1. Closely monitor the transposition of the EU anti-SLAPP Directive, taking into account the standards set out in the European Commission Recommendation 2022/758 and the Recommendation CM/Rec (2024)2 of the Committee of Ministers of the Council of Europe. This should include an effective support system for defendants in SLAPP procedures.
2. Support the implementation and broad application of the Digital Services Act, including by fostering and supporting the trusted institutions that combat illegal, online content (art. 22). The European Commission should also encourage Belgium to designate 'trusted flaggers' as soon as possible. Additionally, the Commission could offer clearer guidelines and strong, effective means to 'trusted flaggers' that have already been designated by public authorities.

Belgium 2025

Information from: Central Monitoring Council for Prisons (CTRG-CCSP); Combat Poverty, Insecurity and Social Exclusion Service; Federal Institute for the Protection and

the Promotion of Human Rights (FIRM-IFDH); Flanders Human Rights Institute (FLANHRI); Institute for the Equality between Women and Men (IGVM-IEFH); Myria (Federal Centre for the analysis of migration flows, the protection of fundamental rights of foreigners and the fight against human trafficking); Unia (Interfederal centre for equal opportunities and opposition to racism and discrimination)

Functioning of justice systems

Independence and impartiality of judiciary

The 2025-2029 Federal Government Agreement envisages appointing judges at the Council for Alien Law Litigation (CALL – an independent administrative tribunal for immigration cases) for a renewable mandate of five years instead of for life.

The federal government will also examine whether the competence regarding the reception of applicants for international protection could be transferred from the labour courts to the CALL. This change could be in response to the State's thousands of convictions for refusing to provide applicants for international protection with their legally mandated reception and the State's subsequent refusal to enforce those judgments and pay the penalties ordered by the labour courts.

As mentioned in ENNHRI 2024 Rule of Law Report, there are also some concerns
regarding several recent law proposals that would reinforce disciplinary control exercised on the judges, including by controlling them more frequently, by creating new bodies tasked with the upholding of the discipline (and sometimes removing the current privilege of the chef de corps) and to allow for new sanctions. These law proposals seem intended to break with the tradition of magistrates' disciplinary proceedings being mostly conducted by the judiciary itself, in order to improve both the effectiveness of the proceedings and its appearance of impartiality to the larger public. A more thorough analysis of these proposals was published in last year's report. Furthermore, the 2025-2029 Government Agreement mentions a reform of the disciplinary regime applicable to magistrates, even though few details are currently available. The Agreement does seem to indicate that the law on the autonomy of the judiciary might be paused until the disciplinary reform has been made. This could be concerning given that the law on the autonomy of the judiciary was expected to lead to increased resources for the judiciary.

Delays in court proceedings

As underlined in the European Commission 2024 Rule of Law Report on Belgium, delay in court proceedings remain a significant problem in Belgium. Furthermore, there remains a lack of statistical information that allow to measure the evolution of this problem, despite multiple recommendations to gather this information.

Access to legal aid

Many litigants in Belgium are giving up their rights due to of the cost of a judicial procedure, significant delays and lack of confidence in the justice system. Without covering exhaustively this subject, some issues limiting access to legal aid can be highlighted, related to the competences of the authors of this report:

- In 2024, a coalition of Belgian civil society organisations, judicial actors and trade unions made a number of recommendations to improve access to justice. They include setting thresholds for access to completely free legal aid above the poverty line, and a yearly indexation based on inflation. The platform also expressed concerns about the physical accessibility of courts for people with reduced mobility and/or disabilities and for people without electronic identity documents (checked at the entrance of certain buildings), as well as regarding access to digital documents for people with limited online access.
- The 2025-2029 Federal Government Agreement envisages to re-evaluate the remuneration for free legal aid for applicants of international protection, to increase its control and the fight against fraud.
- The Act of 4 May 2020 established IGVM-IEFH's competence to deal with non-consensual dissemination of images and recordings of a sexual nature. However, the Public Prosecutor's Office regularly refuses to take statements as injured party from IGVM-IEFH in such cases, on the pretext that there is no gender dimension. Courts have also ruled that IGVM-IEFH's legal action in such cases was inadmissible. IGVM-IEFH finds two faults in this reasoning: first, it does not seem necessary for the Institute to demonstrate any gender discrimination as the 2020 Act habilitates it to act. Second, there is a gender dimension to these cases, since they often rely on gender and sex-related stereotypes.
- The Combat Poverty Service dealt with access to legal aid in the context of its work on the non-take-up of rights. It recommended that authorities and actors involved initiate a reflection on non-take-up, provide for better monitoring and for the necessary measures to improve access to justice.
- Finally, the quasi-impunity associated with discriminatory press offences is also an obstacle to access to justice for victims.

Professionalism, specialisation and training of judges

The Commission for the evaluation of the federal antidiscrimination laws recommends to step up training efforts for judges on anti-discrimination legislation, with the assistance of equality bodies. This training should include awareness-raising of the impact of discrimination, hate speech and hate crimes on victims and society.

Respect for fair trial standards

In recent years, municipal administrative sanctions have been increasingly used to combat behaviours deemed problematic by public authorities and to prosecute certain minor offences (such as insults, graffiti, non-violent thefts of less than a few hundred euros, etc.). Although the law provides a remedy to the police court, access to the judge can be difficult in practice to challenge those fines. Research from the National Institute of Criminalistics and Criminology suggests that the existing remedy is rarely used, owing to a lack of information and the potential costs associated with the procedure that could end up much higher than the challenged fine (maximum 500 euros). For example, on 7 October 2024, the Antwerp police court ordered a person to pay €299 in additional costs in addition to the confirmed fine of €60 for its participation in an unauthorized peaceful demonstration that had not disturbed public order.

The 2025-2029 Federal Government Agreement intends to introduce remote hearings or hearing at prisons premises for the legality review of the pre-trial detention. This represents a significant change from the recently adopted remote hearings Act, as the Agreement establishes as a general principle that the hearings could be held remotely without the consent of the parties to the proceedings. This change could lead to a serious risk of violation of the right to a fair trial.

Digitalization of the judiciary system can have significant positive impact but should not render access to justice more difficult for the most vulnerable. According to the numerical barometer of the King Baudouin Foundation, in 2023, 40% of Belgians aged between 16 and 74 were in a situation of digital vulnerability. Furthermore, the digital gap between people on low and high incomes is increasing.

Finally, in its 2024 concluding observations for Belgium, the UN Committee on the rights of persons with disabilities noted a lack of sufficient age-appropriate, disability and gender responsive procedural accommodations to ensure effective participation in all legal processes. Judicial staff, such as judges, clerks, magistrates, and others, are often inadequately trained about the individualized requirements of persons with disabilities. Thus, as the Unia has shown in its parallel report for the UN Committee and in two additional reports on the rights of persons with disabilities and on their political participation,

they are not sufficiently heard by the judge. This is particularly the case with decisions to place people with mental disorders under observation or under judicial protection. People with disabilities also often lack the financial means to go to court, especially since they are no longer automatically entitled to free legal aid. Deaf and Hard of Hearing litigants do not benefit from a sign language interpreter in civil matters, and the courts are not always accessible.

Timely and effective execution of national courts' judgments

Non-enforcement of judicial decisions by public authorities remains a significant problem in Belgium, with very little progress being made over the last year. As this issue has already led to several recommendations by the Council of Europe and the European Commission, this section only highlights a number of unenforced court decisions that have not been previously reported on.

An examination of recent case law on prisoners' complaints shows that the proceedings before the complaints commissions set up in each prison suffer from the lack of participation from many prison directors. The directors often choose to limit themselves to a written defense, or even to forgo presenting a defense altogether. The fairness of the proceedings suffers, and the procedures are often delayed. Furthermore, the implementation of the complaint's commissions' rulings is regularly or even – and this is more worrying – simply ignored. However, the law of principles provides that any decision of the complaints commission is enforceable, except if decided otherwise by the chair of the appeals commission. The refusal to enforce a decision can also be challenged in a new procedure before a civil court, but this undermines the effectiveness of the right to lodge a complaint.

In 2019, the Belgian Constitutional Court delivered an important ruling on gender registration in civil status documents. The Court ruled that the Belgian system poses a problem for people of non-binary gender (i.e. who do not fall into the dichotomous categories of 'man' and 'woman'), as they are obliged to have a registered gender that does not correspond to their gender identity. Almost 6 years later, non-binary registration is still not allowed.

In 2024, FIRM-IFDH launched a study on the non-execution of national judgements. The first part of this study – which will be completed by the end of 2025 – is a (non-exhaustive) inventory of non-executed decisions. To this end, FIRM-IFDH has already identified unexecuted decisions in areas as varied as the right to a healthy environment (overflight of Brussels by planes, 'nitraat arrest', etc.), the fight against terrorism (Trabelsi case, return of a terrorist to France), labour law (protection of contractual trade union delegates in the public sector, recording of overtime, grounds for dismissal in the public sector, etc.), company law (refusal to grant subsidies on political grounds), or administrative law (arms exports, payment of penalties to the Council of State,

etc.). In total, at the time of this writing, judgements regarding 23 ‘themes’ are considered unexecuted, with sometimes several dozen or even several thousand unexecuted decisions within a theme.

Delay in and/or a lack of publication of judgments

In 2022, a law created the Central Registry of civil and criminal judgments. The law entered into force on 30 September 2023, but the registry remains inaccessible to this date, mostly due to technical difficulties. In 2025, the government announced it would make the registry operational, which would be powered by algorithms. Effectively creating the registry would improve the transparency and the accessibility of the case-law. However, clarification could be brought on the application of the research tool to identify human-rights case-law, such as decisions regarding journalists, criminal investigation involving police officers or civil servants, etc.

Gender aspects

Some of the issues regarding access to justice indeed affect disproportionately women and marginalised gender groups:

- The non-execution of the abovementioned Constitutional Court's 2019 ruling creates problems for non-binary people as they are still unable to have a registered gender that corresponds to their gender identity despite the situation being unconstitutional;
- The refusal to recognize IGVM-IEFH’s competence in case of non-consensual dissemination of images and recordings of a sexual nature likely has a greater impact on women. IGVM-IEFH can thus not offer them its legal support.
- Women, transgender and intersex people are more likely to be the target of press offences (e.g. cyberstalking or written hate speech). These groups are therefore disproportionately affected by the quasi-impossibility to sanction press offences.
- Finally, the ongoing reception crisis disproportionately impacts vulnerable groups, with a particularly significant effect on single men seeking asylum. The exclusion not only exacerbates their physical and psychological distress, and impacts on their preparedness for the asylum procedure, it also limits their ability to access justice.

Implementation by state authorities of European Courts’ judgments - progress:

L.B. and W.D. (internees in prison)

The Committee of Ministers of the Council of Europe adopted an interim resolution on December 5, 2024, expressing its deep concern about the persistence of prolonged detention of internees in prison psychiatric wings

without sufficient and adapted therapeutic support. The Committee, among others, urged the authorities to adopt all relevant measures to remedy the situation, speed up the creation of places for internees outside prisons and reinforce care services. The Committee will resume consideration of this group of cases in March 2026. Unia, CTRG-CCSP and FIRM-IFDH had sent a joint rule 9 submission to the Committee. Proper implementation of the *L.B.* group will require efforts from both the federal authorities and federated entities (Flemish and French Communities).

Order of Flemish Bar Associations – cooperation in the field of taxation

As mentioned in ENNHRI 2024 Rule of Law Report, the European Court of Justice had answered a preliminary question from the Belgian Constitutional Court regarding attorneys' obligations to notify intermediaries, as stipulated in the Flemish Decree of 21 June 2013, which transposed Council Directive 2011/16/EU on administrative cooperation in the field of taxation. The CJEU determined that this obligation encroached on legal professional privilege, was unwarranted and contravened the fundamental right to uphold confidentiality in lawyer-client communications. Consequently, the Constitutional Court had annulled key provisions of the decree.

Remaining unresolved issues were resolved after the European Court of Justice answered the remaining preliminary questions in case C-623/22.

Horion (de facto indefinite prison sentence)

The European Convention on Human Rights does not prohibit life imprisonment. However, individuals sentenced to life imprisonment must have a realistic chance of reforming and, if so, to be released. If this is not possible, the sentence is considered inhumane. In the *Horion* case, the detainee cannot be released before completing a stay in an internee facility, which is not possible under the present legislation. CTRG-CCSP and FIRM-IFDH have sent a Rule 9 communication to the Committee of Ministers, noting the lack of sufficient measures to remedy the situation.

Camara (non-enforcement of judicial decisions in the context of the so-called "reception crisis")

More than 1,5 years after the Camara judgement of July 18, 2023, the reception crisis is still ongoing. Numerous court judgments forcing the federal government to grant humane reception to international protection seekers remain unenforced. FIRM-IFDH and Myria submitted a Rule 9 communication to the Council of Europe, highlighting Belgium's insufficient efforts to address the lack of reception capacity. On September 20, 2024, the Committee of Ministers stated that Belgium had not taken adequate measures to resolve the reception crisis. At the end of December 2024, there were still 3,000 single men on the waiting list for a reception place. The average waiting time was 3 to 4 months.

The Committee called on Belgium to increase reception capacity and improve intergovernmental cooperation to tackle the crisis. Belgium's next action plan will be monitored by the Committee in September 2025. This issue is addressed at greater depths hereunder.

Vasilescu (prison overcrowding)

ENNHRI 2024 Rule of Law Report noted significant concerns regarding non-enforcement of judicial decisions relating to prison overcrowding. The situation was such that, in May 2024, the French-speaking and German-speaking Order of Belgian Bar Associations seized the unused prison of Forest. Despite this effort, the millions in penalties occurred (but not paid, in violation of the law) by the Belgian State, and the numerous attempts to draw the attention of the authorities to this issue, two of the three prisons concerned by those court decisions remain overcrowded.

From December to February, the Federal Parliament held a series of hearings on overcrowding. In December 2024, the Committee of Ministers of the Council of Europe adopted a decision "*urg*[ing] *the authorities to adopt, without further delay, all the measures required to solve the problem of prison overcrowding everywhere*". The Committee of Ministers also "*reiterated their urgent call on the authorities to focus their efforts on achieving a sustainable reduction in the prison population and not on increasing capacity*". However, the 2025-2029 Federal Government Agreement appears to focus mostly on increasing prison capacity (both in Belgium and by renting prisons in other Member States of the European Union). In February 2025, CTRG-CCSP called on the authorities to adopt a form of binding prison regulation.

Bell (excessive length of proceedings)

Excessive length of proceedings remains an ongoing concern in Belgium. Disaggregated statistical data on the disposition time and the clearance rate of Belgian courts and tribunals have not yet been published, despite being emphasized by several actors, including the Committee of Ministers of the Council of Europe and the European Commission. This issue is addressed at greater depths hereunder.

NHRI actions to support implementation of European Courts' judgments

Rule 9 submissions to the Council of Europe's Committee of Ministers

Rule 9 submissions were addressed to the Council of Europe's Committee of Ministers regarding the execution of the following cases:

- Clasens (CTRG-CCSP and FIRM-IFDH);
- Bell (FIRM-IFDH);

- Camara (Myria and FIRM-IFDH);
- Horion (CTRG-CCSP and FIRM-IFDH);
- Vasilescu (CTRG-CCSP and FIRM-IFDH);
- L.B. (Unia, CTRG-CCSP and FIRM-IFDH).

Referring to the judgments of European Courts in the reports and recommendations to state authorities

References to judgments of European Courts are often included in the reports and recommendations of Belgian human rights institutions. Examples include:

- Myria's annual report on international protection;
- The Combat Poverty Service's case-law overview;
- Unia's parallel report to the Committee on the Rights of Persons with Disabilities and its 2023 monitoring report on the rights of internees;
- FLANHRI's advisory opinion on the Flemish reform of antidiscrimination law;
- IGVM-IEFH's report on anti-gender campaigns in Belgium;
- CTRG-CCSP's advisory opinion on prison regulation;
- And FIRM-IFDH's audition by the Federal Parliament regarding the Rule of Law in Belgium.

Engagement with courts

- FIRM-IFDH held several meetings with magistrates' organisations in 2024, to discuss non-enforcement of court judgments and the protection of human rights defenders;
- The Combat Poverty Service has an annual training day with judges on magistrates' view on poverty.

Awareness raising of the general public

Unia, CTRG-CCSP, FLANHRI and FIRM-IFDH, regularly communicates to the general public on decisions of European Courts or the Committee of Ministers and the lack of implementation by state authorities (for example: Internering in gevangenissen: Europa wijst België op zijn… | Unia). Unia also refers to these decisions in presentations and formations for the general public and professionals as well as in media interventions.

Human rights education

FIRM-IFDH held several human rights trainings in 2024 and early 2025, including to police agents at the Kazerne Dossin and for junior attorneys of the Young Bar Association.

Support to specific groups

At the end of 2023, the International Federation of Human Rights (FIDH)

and International Movement ATD – Fourth World filed a complaint before the European Committee of Social Rights. The Committee is asked to find that the repression of begging by local ordinances in Belgium does not comply with the European Social Charter, partly based on a joint study of the Combat Poverty Service and FIRM-IFDH. In 2024, ENNHRI addressed a third-party intervention to the Committee, in support of the claimants and asked the Committee to recognize that begging enjoyed protection under the Charter.

Measures taken in your country to follow up on the recommendations concerning justice systems, issued by European actors

Non-enforcement of judicial decisions

Failure to enforce court decisions – both European and national – remains one of the main threats to the rule of law in Belgium. In 2023 and 2024, the European Commission noted its "serious concerns" regarding non-compliance with final judgments. The Commission recommended to Belgium to "[t]*ake measures to ensure compliance by public authorities with final rulings of national courts and the European Court of Human Rights*". This is both a long-standing problem – some convictions have been pending for more than twenty years – and a widespread one – affecting both the federal state and the Communities and Regions. It is also getting worse.

This phenomenon has been particularly well illustrated since 2021 by the refusal of the federal authorities to enforce numerous court decisions ordering them to provide dignified reception to applicants for international protection. Court rulings ordering accommodation and assistance to asylum seekers are still systematically non-enforced by the Belgian authorities. There were up to 10.206 convictions by labour courts in December 2024. The Belgian authorities continue to refuse to pay the penalties ordered by the labour courts for non-compliance with court judgements.

Since December 2024, men with protection status in another EU member state have been doubly targeted: the Secretary on Asylum and Migration announced their exclusion from the legally-mandated reception and their removal from the Fedasil waiting list that could eventually lead to their reception. On 27 December 2024, the Council of State ordered the suspension of this 'instruction', requiring it to be submitted for legislative advice. In response, the Secretary on Asylum and Migration announced plans to proceed with the controversial policy despite the court ruling. This ongoing reception crisis exacerbates the humanitarian crisis, leaving many asylum seekers without shelter and at risk.

In its review of the follow-up to the ECtHR *Camara* judgment in September 2024, the Committee of Ministers of the Council of Europe noted the inadequacy of the measures taken in view of this continuing crisis. The Committee called on Belgium to "*eradicate* (...) *the problem of non-execution*

of judicial decisions at its source". In a recent audition before the Justice Commission of the Federal Parliament, FIRM-IFDH also underlined non-enforcement of final judgments as one of the main problems affecting the rule of law in Belgium today, pointing out that a government that does not guarantee effective legal protection undermines all human rights.

Additional resources for the judiciary

The European Commission 2024 Rule of Law Report noted, as it had done in 2022 and 2023, the need to "*continue efforts to address the structural resources deficiencies in the justice system, taking into account European standards on resources for the justice system.*". In particular, The Commission highlighted the recent workload measurement, which confirmed structural shortcomings. Based on the 2024 scoreboard on justice in the EU, the Commission points out that the justice budget in Belgium is below the European average and that the number of professional magistrates per 100,000 inhabitants is well below average.

The same observation can be made at the level of the Council of Europe: in recent years, Belgium has allocated approximately 0.22% of its GDP to its justice system, compared to 0.28% of GDP for the median of the Member States of the Council of Europe. It has an median of 14.4 professional judges per 100,000 inhabitants, compared to 17.6 professional judges at the Council of Europe level. Finally, Belgium has 48.8 non-magistrate judicial personnel per 100,000 inhabitants, compared to a median of 57.9 personnel for the Member States of the Council of Europe.

This observation of a lack of resources is widely shared by those involved in the judicial system. In a joint memorandum, the Constitutional Court, the Court of Cassation and the Council of State emphasized that it is "*urgent that judicial activity as a whole receives increased attention and budgetary resources*". In July 2024, the Justice Ministry called on the next government to allocate more financial resources, claiming it would otherwise be unable to pay its bills. In March, and then in November, the professional organisation of sworn translators and interpreters pointed out that some of its members had not been paid by the State for months, a problem that was largely resolved in December. Staff at the Nivelles courthouse were denied access to its archives due to the presence of serious health risks, making it impossible to hold scheduled hearings in some cases. As the situation deteriorated further, the Nivelles courts had to relocate urgently following the closure of the entire courthouse building. Other courthouses have also suffered: between June and October 2024, several media outlets reported that the archives of the judicial districts of Liège, Brussels, Mons and, last year, Tongres had been damaged by water leaks, fungus and mould. This has led, among others, to the inadmissibility of proceedings against a man sentenced in absentia to 25 years' imprisonment because the right to a fair trial could no longer be guaranteed, due to the

destruction of the necessary evidence and documents.

The 2025-2029 Federal Government Agreement does not contain clear commitment to significantly increase the resources for the judiciary, contrarily to other sectors – such as defence spendings – which are set to increase. Some improvements have been announced, such as better pay for the judges in training. The government also plans to achieve the autonomous management of courts and tribunals, which has in the past been linked to increased resources (albeit with more responsibilities). However, the Government Agreement also states that the autonomous management will not be finalized until a reform of the discipline and evaluation applicable to judges has been renewed. Such conditionality is worrying, as it could lead to a 'carrot-and-stick' situation, where additional resources are denied unless the magistrates agree to a reform. It is also important to prevent the conditionality attached to additional resources to have the unwarranted effect of threatening the quality of the work of the judiciary as well as the independence of the judiciary, nor impede citizens' effective access to justice. Furthermore, the conditionality should avoid leading to sanction understaffed and underfunded courts and tribunals if they fail to meet the objectives due to a lack of resources. In general, more resources should be allocated to the judiciary in order to ensure that it can carry out its duties in proper and safe working conditions.

Reducing the length of proceedings

In its 2024 Report on the Rule of Law, the European Commission recommended that Belgium improves the efficiency of its justice system, "*particularly to reduce the length of proceedings based on comprehensive statistical data*." However, excessive length of court proceedings remains a significant problem in Belgium.

In a recent assessment of the execution of the European Court of Human Rights' rulings on this matter, the Committee of Ministers of the Council of Europe emphasised "*the importance of making progress without delay, and in particular of finalising the mapping of the backlog and processing times of all courts, while strengthening the resources of the most overburdened ones".* The Committee also invited the government to provide statistics on the disposition time and the clearance rate of civil and criminal cases, both in first instance and on appeal, and both at the national level and on the number of cases disaggregated by court within each court of appeal. The clearance rate is a measurement of the capacity of a court or judicial system to resolve as many cases as it receives within a specified period of time. It is obtained by dividing the number of cases resolved by the number of new cases within the same period.

While efforts have been made to better map the processing of court cases, statistics on the clearance remain incomplete as they do not take into account

the differences existing between different jurisdictions within the same judicial district. Furthermore, statistics on the disposition time have not yet been published.

FIRM-IFDH has written several times on the length of legal proceedings as part of its follow-up to the *Bell v. Belgium* ruling of the European Court of Human Rights. In April 2024, it published its second communication to the Committee of Ministers, which took stock of previously published statistics on the processing time of legal proceedings and the *clearance rate* of Belgian courts. FIRM-IFDH, like the Commission, has asked federal authorities to publish statistical data on the length of judicial proceedings in civil and criminal cases, which would account for the disparities between judicial districts. It has also asked the State to detail the measures it intends to take to address staffing problems and the increasing backlog of several jurisdictions, including in family courts.

Strengthening Parliament's integrity framework

The European Commission 2024 Rule of Law Report recommended to strengthen the federal Parliament's integrity framework, including by adopting rules on gifts and benefits for members of Parliament. In 2024, article 6 of the deontological code of the House of Representatives was modified in order to clarify which gifts can be received by members of Parliament. A reference was made to the existing legal framework for electoral spending (article 16bis of the Act of 4 July 1989). Contrary to the government's deontological code (art. 5), no gifts register was introduced for members of parliament. This was not considered desirable, given the difficulties of control and the heavy administrative burden it would lead to.

NHRI's recommendations to national and regional authorities

1. **Non-execution of Judgements:** the lack of execution of judicial decisions—both European and national—is one of the greatest threats to the rule of law in Belgium. A government that fails to ensure effective legal protection undermines all human rights. Respect for these decisions must urgently become a priority for the government and Parliament.
    1. Organize a parliamentary hearing on the non-execution of judicial rulings to highlight the scope of the issue and discuss possible solutions.
    2. Request the government to provide regular updates on the follow-up of significant rulings that have not yet been implemented.
    3. Approve legislative amendments to address gaps identified by

courts and tribunals.

2. **Additional Resources for the Judiciary**
    1. Commit to approving an adequate budget for sufficient personnel and resources for courts and tribunals, taking into account European standards for resources to the judiciary.
    2. Ensure that judicial funding remains independent of performance criteria set by the executive branch to safeguard judicial independence.
3. **Addressing Excessive Length of Judicial Proceedings**
    1. Publish data – either through the government or in a parliamentary report – on the length of judicial proceedings and case resolution rates, broken down by judicial district and by each jurisdiction within them, including distinctions between civil and criminal divisions of the courts of appeal.
    2. Provide details on the measures the government plans to take to address the growing backlog in family courts.
    3. Allocate additional resources to reduce backlogs in the most affected courts and tribunals.
4. **Providing Care and Assistance to Internees and Detainees**
    1. Increase efforts to provide (mental) health care and assistance to internees, detainees and former detainees. At present, it is not clear for many detainees and internees which services (psychological, educational,…) are available, due to lack of information about them (or registration to them), lack of translation and illiteracy. Internees and some detainees do not have access to those services because of their legal status, residence status, multiple problems or disorders, foreign language, or because there is no or only limited provision.
    2. Facilitate the transfer of internees from prisons and forensic psychiatric facilities into the ordinary care circuit. Solutions should be found for internees without residence permits.
5. **Legal aid**
    1. Make information regarding legal aid accessible through different channels (personal contacts, leaflets, collaboration with neighbourhood organizations) to reach the widest possible audience and use as little legal jargon as possible.
    2. Review and address financial and material obstacles to legal aid and legal insurance.
6. **Non-take-up of Rights**
    1. Provide appropriate financial resources and training to the administrative authorities tasked with overseeing the effectiveness of rights.
    2. Undergo an ex ante and ex post evaluation – where people in poverty and other relevant actors are included – of measures with a possible impact on situations of poverty. These analyses

must particularly consider effective ways to reach vulnerable persons – including take-up and non-take-up of rights.
3. Adopt a plan to combat the non-take-up of rightsat the federal, regional and local levels.

Belgium 2025

Information from: Central Monitoring Council for Prisons (CTRG-CCSP); Combat Poverty, Insecurity and Social Exclusion Service; Federal Institute for the Protection and the Promotion of Human Rights (FIRM-IFDH); Flanders Human Rights Institute (FLANHRI); Institute for the Equality between Women and Men (IGVM-IEFH); Myria (Federal Centre for the analysis of migration flows, the protection of fundamental rights of foreigners and the fight against human trafficking); Unia (Interfederal centre for equal opportunities and opposition to racism and discrimination)

Media freedom, pluralism and safety of journalists

Media independence

- In Belgium, audiovisual media (including online platforms and influencers) are an exclusive competence of the communities. Audiovisual media in Flanders have a specific supervisory institution, the Vlaamse Regulator voor de Media (VRM), with which FLANHRI closely collaborated in developing this section.

Several safeguards are in place to guarantee media independence in Flanders, including:

- **Editorial statutes**. These written frameworks define the relationships between editors, editor-in-chief, and management within a broadcast media, ensuring the independent operation of editors in relation to the broadcaster;
- **Legal guarantees**. The Flemish Media Decree explicitly states that broadcasters must be independent of political parties and that broadcasts are under the final editorial responsibility of the staff.
- **Historical reasons**. Historically, newspapers in Belgium were affiliated with political parties and labour organizations. However, those

affiliations faded out after World War II due to the consolidation of many newspapers into a few media groups. Most newspapers are now owned by commercial entities and the largest are all independent from political groupings. Politically affiliated news brands exist but do not have a large audience nor are they seen as leaders within the Flemish media landscape. This independence is supported by the yearly media concentration reports published by VRM.

- **Strong self-regulation**. The remaining area of concern, such as media groups promoting their own products, are generally seen as manageable. The presence of norms and good practices published by the Media Councils (Raad voor de Journalistiek) helps to uphold editorial ethics.

According to a 2024 survey, most journalists in Flanders are satisfied with the collective autonomy of editors from commercial and other pressures. Internal bodies or self-regulatory instruments also play a crucial role in protecting journalists from commercial pressures and other external pressures. Belgium's rise to the 16th place in the World Press Freedom Index by Reporters Sans Frontières (RSF) also suggests a relatively healthy media environment.

However, a statement by the Flemish Association of Journalists argues in favour of a more pluralistic board of directors of the current public broadcaster VRT. A partial depoliticization took place in 2021 which resulted in four independent directors being required among the total of twelve. Eight out of twelve directors remain politically assigned, with a system of equal representation for the biggest parties in the Flemish Parliament. This shift within the appointment system leads to smaller political parties not being represented within the current board of directors. The current system of appointment risks to jeopardise the safeguards laid out in the new European Media Freedom Act, which calls for a management board where members are appointed on the basis of transparent, open, effective and non-discriminatory procedures and transparent, objective, non-discriminatory and proportionate criteria laid down in advance at national level.

Media pluralism

Both the Flemish and the French-language media markets remain highly concentrated. However, several actors, such as the Media Pluralism Monitor and the European Commission consider this concentration to be sufficiently counterbalanced by the independence of media regulators. In Flanders at least, media regulators have an obligation to publish a yearly report on media concentration. Furthermore, over the past five years, media pluralism among individual television channels has increased.

Harassment, threats and attacks against journalists and media outlets (including legal harassment, SLAPPs)

In 2024, several worrying trends regarding the protection of journalists against frivolous lawsuits and other actions aimed at limiting the right to information became exacerbated. A number of noticeable cases appear to point at attempts to go against the constitutional ban on preventive censorship (art. 25), as the two professional organisations representing (French-speaking and Flemish) journalists highlighted in a statement. Several examples can be mentioned:

- The Court of Appeal in Ghent ruled on 28 March 2024 that a well-known politician could not rely on a legal basis to prohibit the publication of an article about him. The court ruled that the order of the first instance tribunal had violated the constitutional prohibition on preventive censorship.
- On 10 October 2024 – just days before the municipal elections – a judge in Liège acting on an emergency unilateral application imposed a publication ban on an article about a candidate for the municipal elections.
- The Minister of the Interior together with an official working on the 'QatarGate' requested the removal of several online publications by the Sudinfo media group. Additionally, a ban was sought on "any similar publication in the future." The judge found the request to be in direct contradiction with the Belgian constitutional ban on preventive censorship.
- A bailiff requested banning the distribution of a broadcast of the public media RTBF before the French-speaking Business Court of Brussels. While the court ruled in favour of RTBF, the reasoning it followed has raised concerns that commercial legislation on unfair practices could be invoked and used to justify preventive censorship.
- Lastly, several instances of violence and other forms of harassment have been reported against journalists, among else by the French-speaking and the Flemish Journalists Associations, and the NGO Mapping Media Freedom. More examples of violence and harassment against journalists are presented under question 15 hereabove.

Independence and effectiveness of media regulatory bodies

According to the Flemish Media Decree, the Flemish media regulator VRM is set up as a separate legal entity and its independence is explicitly recognized in the legal framework (art. 215). Its deciding organ is entirely composed of experts that are independent from both media organisations, commercial interest groups and broadcasters (art. 216).

VRM has never been condemned after an investigation by an anti-corruption body.

Challenges in access to public interest information/documents

The European Commission has long recommended Belgium amended its legislation regarding access to public documents, arguing in its July 2024 report that Belgium should "(…) *strengthen the framework for access to official documents, in particular by improving request and appeal processes, taking into account European standards on access to official documents*". The federal law on access to official documents had then just been amended by the Act of 12 May 2024. However, those changes were received with mixed enthusiasm, due to a lack of reform of the main deficiencies of the current publicity regime. The appeal bodies competent to contest a refusal to receive access were not granted binding decision-making powers, nor was an urgent procedure introduced. Furthermore, two new absolute grounds to refuse access to official documents were introduced, leading to criticism, among others, from the French-speaking and the Flemish Journalists Associations.

While the federal parliament adopted an act giving assent to the Council of Europe Convention on access to official documents (the 'Tromsø Convention'), Belgium is still to formally ratify the convention. The Act also does not appear to have been published yet in the Belgian Official Gazette. It is also unclear whether all relevant parliaments from federated entities have adopted laws assenting to the Convention, especially for the Walloon Region.

In 2024, the **new Penal Code** was adopted. It included, among other things, revised articles regarding the protection of state secrets. These articles expand, among other things, the definition of **state secrets**. FIRM-IFDH expressed its concern about these provisions in a 2023 advisory opinion to the federal Parliament. These provisions, when applied, could pose a threat to press freedom and to the role of whistleblowers, and their ability to contact and bring relevant information to journalists. Furthermore, journalists could themselves be prosecuted under this new statute based on their having access or storing state secrets. The Flemish and French-speaking Professional Journalists associations recently introduced legal proceedings against this new offence before the Constitutional Court. The ruling is expected in 2026.

Gendered aspects

Analyses show that **women are less represented than men** in media. **Transgender people** are also underrepresented. Furthermore, women and men are distributed depending on the types of programmes. For example, men are more represented in sports programmes. This impacts **gender-related representations**.

In its legal assistance mandate to combat gender discrimination, IGVM-IEFH is sometimes confronted with **problematic behaviours in the media**. This involves, for example, comments and behaviours made in programmes that trivialise gender-based violence (such as "rape is not systematically

experienced as a tragedy") or express contempt for women (for example, a guest on a programme who refused to answer questions from a female journalist). The impact in terms of equality can be considerable given how widespread these types of behaviour appear to be.

A recent study amongst Belgian journalists found that Belgium has a relatively **undiversified** group of journalists in terms of minorities and gender, with only **one third of journalists being women**. It also found that violence against journalists is widespread and disproportionately affects women. Those findings confirm other reports which found that **Belgian journalists** have been confronted with **increased violence** in recent years, as highlighted in ENNHRI 2024 Rule of Law Report. Indeed, in June 2023, the French-speaking and Flemish professional Journalists' Associations published their third study 'Portrait of Belgian journalists' surveying almost 1400 journalists on a variety of subjects, including threats and violence they had experienced. **55,8% of journalists reported having been confronted with transgressive behaviours**, including verbal violence (41,3%), threats and intimidation (29,2%), sexually transgressive behaviours (7,1%) and physical violence. **64,1% of female journalists** reported having been targeted by transgressive behaviours, **compared with 51,4% of male journalists**. The difference is mainly due to:

- much more prevalent forms of sexual transgressive behaviours (18,6 % of female journalists, compared to 1,2% of male journalists);
- and discrimination (14,8% of female journalists compared to 4,4% of male journalists);

Physical violence also appears to have a gendered component: twice as many men were victims (6,6 % to 3,2% for women).

Concerns over **increasing online intimidation against female journalists, especially those of color**, arise as well, as illustrated by other studies: a 2022 study also found that a large majority of women journalists, and especially women journalists of colour, faced online intimidation and violence, including rape and murder threats.

NHRI's recommendations to national and regional authorities

1. **Transpose the EU anti-SLAPP directive**, taking into account EU Commission Recommendation 2022/758 of 27 April 2022 as well as Recommendation CM/Rec(20244)2 adopted by the Committee of Ministers of the Council of Europe on 5 April 2024;
2. Further **strengthen the federal legislation regarding access to information** and ratify the Council of Europe Convention on access to

official documents.

Belgium 2025

Information from: Central Monitoring Council for Prisons (CTRG-CCSP); Combat Poverty, Insecurity and Social Exclusion Service; Federal Institute for the Protection and the Promotion of Human Rights (FIRM-IFDH); Flanders Human Rights Institute (FLANHRI); Institute for the Equality between Women and Men (IGVM-IEFH); Myria (Federal Centre for the analysis of migration flows, the protection of fundamental rights of foreigners and the fight against human trafficking); Unia (Interfederal centre for equal opportunities and opposition to racism and discrimination)

Other challenges to the rule of law and human rights

Three issues related to areas of the rule of law remain to be addressed within this report.

Checks and balances

First, the **separation of powers** in Belgium has increasingly been **under pressure** in the last few years, mostly to the detriment of the judiciary. This is the result of several distinct but mutually reinforcing trends :

- Persistent **lack of funding for the judiciary** – Belgium only allocates 0,22% of its GDP to the judiciary, while the European median is 0,28% ;
- Attempts to increase the **executive branch's control over the judiciary**, such as by conditioning the means allocated to overburdened tribunals to the realization of certain objectives set by the executive or by reforming the judges' disciplinary procedures ;
- **Lack of compliance** with court rulings ;
- And increasingly **shifting the sanctioning** of certain minor offenses **from the judiciary to the executive branch**, mainly through administrative sanctions.

Second, there has been growing concern for the **impact of organized crime on the rule of law** in Belgium. The 2024 European Commission Rule of Law Report on Belgium underlined concerns regarding corruption by organized crime groups and drugs traffickers, including the unauthorized access to

databases by public officials to obtain data for criminal groups, and the lack of resources and coordination for the internal integrity police. The situation has deteriorated since, with **growing intimidation** against magistrates, journalists, police officers and politicians by criminal organisations. Furthermore, measures to step up the fight against organized crime have also had a **significant negative impact** on the rule of law, including by weakening the separation of powers.

Lastly, concerns were raised regarding the area of **migration and asylum**. The means of control and constraint that can be mobilized as part of the migration removal policy were considerably extended (Act of 18 April 2024, Act of 12 May 2024, Act of 16 May 2024). Myria argues the **extension of these prerogatives are not sufficiently regulated**. Furthermore, the recent 2025-2029 Federal Government Agreement envisages many **far-reaching measures** for irregular migrants, asylum seekers and beneficiaries of international protection as well as in the framework of family reunification. This will need to be followed up with scrutiny in terms of respect for international and European law and of safeguarding the necessary checks and balances.

Measures taken in your country to follow up on the recommendations concerning other areas of the rule of law (such as checks and balances, anti-corruption), issued by European actors

FIRM-IFDH participated in the **OECD Working Group on Bribery's country visit** to Belgium in September 2024. It contributed to discussions on whistleblower protection. The finalization of Belgium's Phase 4 evaluation report is scheduled for the first semester of 2025.

On 29 January 2025, FIRM-IFDH presented the Belgian chapter to ENNHRI 2024 Rule of Law Report to the **Justice Commission of the House of Representatives**. It also included an update on most of the recommendations formulated in the European Commission 2024 Rule of Law Report on Belgium. FIRM-IFDH encouraged the members of Parliament to take specific measures in order to improve Belgium's compliance with these recommendations.

Persisting structural human rights issues impacting on the national rule of law environment

Impact of the so-called "reception crisis" on the rule of law

The ongoing reception crisis for applicants of international protection remains one of the direst challenges to the rule of law in Belgium. In its 2024 Rule of Law Report on Belgium, the European Commission recommended to "[t]*ake measures to ensure compliance by public authorities with final rulings of national courts and the European Court of Human Rights*.", singling out in particular the lack of compliance with "*a number of judgments and court*

orders" regarding the rights of asylum seekers. Unfortunately, few efforts appear to have been made to ensure compliance. Judicial decisions continue not to be executed, and state authorities have so far not openly reacted to this growing rule of law crisis, despite numerous alarms from independent actors.

Belgian responsibility for historical crimes against humanity

On 2 December 2024, the **Brussels Court of Appeal** ruled that the Belgian State had committed a **crime against humanity by systematically locating and kidnapping children born of a black mother and a white father in the former Belgian Congo**. This decision is historic: by acknowledging that these reprehensible acts constitute crimes against humanity, the Court rejected the argument that statutory limitations would prevent the trial, thus ending a decades-long search for justice. These facts, being ruled to constitute a crime against humanity, mean that no statute of limitations on civil actions can be invoked, allowing victims to claim compensation decades later. This decision constitutes a major consecration of the **principle of legality** and the binding force of law, including with regard to historical violations of fundamental rights by States. Hence, it also constitutes a major step forward for the rule of law.

Artificial intelligence

The **opacity regarding the uses of artificial intelligence by public authorities** remains an ongoing concern. Authorities are steadily adopting more AI tools in order to perform a number of public duties related to healthcare, police or social programs. However, the authorities do not have an obligation to divulge the use of those systems, their functioning and how they are used. This creates an **accountability gap** which prevents the assessment of potential human rights violations. FIRM-IFDH and Unia have both recommended the creation a **public register of authorities' uses of artificial intelligence**. In December 2024, the Belgian Data Protection Authority published a summary of the links between data protection and artificial intelligence systems. Unia's 2024 annual report points out **multiple risks associated with AI**, including discrimination, exclusion and profiling. The report advocates for the creation of a **supervisory body** to ensure the transparent and controlled use of AI in accordance with human rights. The report reiterates the recommendations made in the Belgian chapter to ENNHRI 2024 Report on the Rule of Law: to adopt a **register of the use of AI by public authorities**; to **systematically inform individuals** when public authorities use AI; and to **support equality bodies and human rights institutions** in their AI-related tasks.

Co-funded by the European Union