

European Union Agency for Fundamental Rights (FRA), selection of relevant and recent passages from published reports related to Belgium

fra.europa.eu

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References to Belgium marked in **bold**. NB: any footnotes in the original texts have been omitted from this overview. Furthermore, many reports contain relevant graphs and figures, which haven't been included in this document.

Contents

Data Explorers and Tools	3
Annual Reports	3
Fundamental Rights Report 2020 (June 2020).....	3
2. <i>Equality and non-discrimination</i>	3
3. <i>Racism, xenophobia and related intolerances</i>	3
4. <i>Roma integration</i>	4
5. <i>Asylum, visas, migration, borders and integration</i>	4
6. <i>Information society, privacy and data protection</i>	4
7. <i>Rights of the Child</i>	4
8. <i>Access to Justice</i>	4
9. <i>Developments in the Implementation of the Convention on the Rights of Persons with Disabilities</i>	5
Fundamental Rights Report 2019 (June 2019).....	5
1. <i>Implementing the Sustainable Development Goals in the EU: A Matter of Human and Fundamental Rights</i>	5
3. <i>Equality and non-discrimination</i>	5
4. <i>Racism, xenophobia and related intolerances</i>	6
6. <i>Asylum, visas, migration, borders and integration</i>	7
7. <i>Information society, privacy and data protection</i>	7
8. <i>Rights of the child</i>	7
9. <i>Access to justice</i>	8

10. <i>Developments in the implementation of the Convention on the Rights of Persons with Disabilities</i>	9
Thematic Reports	9
Business and human rights – access to remedy (October 2020).....	9
Roma and Travellers in six countries (September 2020).....	9
Antisemitism: Overview of anti-Semitic incidents recorded in the European union 2009-2019 (September 2020).....	9
Strong and effective National Human Rights Institutions – challenges, promising practices and opportunities (September 2020).....	9
A long way to go for LGBTI equality (May 2020).....	11
Criminal detention conditions in the European Union: rules and reality (December 2019).....	12
Young Jewish Europeans: perceptions and experiences of antisemitism (July 2019).....	13
Experiences and perceptions of antisemitism – Second survey on discrimination and hate crime against Jews in the EU (December 2018).....	13
Hate crime recording and data collection practice across the EU (June 2018).....	14
Challenges facing civil society organisations working on human rights in the EU (January 2018)...	14
Second European Union Minorities and Discrimination Survey - Main results (December 2017)...	15

Data Explorers and Tools

In addition to the relevant passages from recent FRA publications that are presented in this submission, valuable information can be found in the **data explorers** on FRA's website (available at <https://fra.europa.eu/en/publications-and-resources/data-and-maps>), which allows the comparison of results from some of FRA's research for all EU Member States, including Belgium:

- [Forced return monitoring systems – State of play in EU Member States](#) (last updated July 2020)
- [EU LGBTI Survey data explorer](#) (last updated May 2020)
- [Minimum age requirements related to rights of the child in the EU](#) (last updated October 2018)
- [Second European Union Minorities and Discrimination Survey \(EU MIDIS II\) data explorer](#) (last updated December 2017)
- [Mapping child protection systems in the EU](#) (last updated August 2015)
- [Indicators on the right to political participation of people with disabilities](#) (last updated April 2015)
- [Mapping victims' rights and support in the EU](#) (last updated April 2014)
- [Violence against women survey data explorer](#) (last updated March 2014)

In addition to the data explorers, the FRA website also offers the [European Union Fundamental Rights Information System \(EFRIS\)](#). EFRIS is a Human Rights Gateway, bringing together data and information from existing human rights databases, and enables viewing and analysis of relevant assessments of fundamental rights in the EU.

Annual Reports

Fundamental Rights Report 2020 (June 2020)

<https://fra.europa.eu/en/publication/2020/fundamental-rights-report-2020>

2. Equality and non-discrimination

"Governments and inspectorates in **Belgium**, the Netherlands and France used discrimination testing to monitor and increase compliance with anti-discrimination legislation." (p. 43)

"The **Belgian** Constitutional Court addressed the controversial restrictions on blood donations from men who have sex with men. Such men, in particular gay and bisexual men, were not allowed to donate blood for 12 months after their last sexual contact with another man. This did not apply to the rest of the population. Articles 8 and 9 of the Law of 11 August 2017 introduced the difference. The Constitutional Court annulled Article 8, in so far as it excluded these men from donating "fresh frozen plasma" taken by apheresis and placed in quarantine. (Apheresis is a technique that takes only certain blood components.)" (p. 47)

3. Racism, xenophobia and related intolerances

"States had adopted or endorsed the [non-legally binding working definition of antisemitism adopted by the International Holocaust Remembrance Alliance]: Austria, **Belgium**, Bulgaria, Czechia,

France, Germany, Greece, Hungary, Lithuania, the Netherlands, Romania, Slovakia, Sweden and the United Kingdom.” (p. 62)

“In March 2019, the Brussels-Capital Region adopted its action plan against racism and discrimination. It contains concrete measures including establishing a platform against racism, exchanging good practices and developing of method of data collection. Various bodies will carry out the plan, including the **Belgian** equality body Unia, the Institute for the Equality of Women and Men, the labour unions and others.” (p. 66)

“The police are more likely to stop and search persons with ethnic minority backgrounds for identity checks, research in a number of Member States shows. For example, in **Belgium**, young people with an ethnic minority background are three times more likely to be stopped by the police for identity checks, research published by the University of Antwerp in June 2019 reveals. Such profiling can undermine trust in law enforcement among persons with ethnic minority backgrounds, the research findings also show.” (p. 72)

4. Roma integration

“In **Belgium**, the equality body Unia issued its annual report for 2018 in 2019. It emphasises that access to education remains difficult and urgent, and that young Roma are still overrepresented in special education.” (p. 87)

“In **Belgium**, the equality body Unia expressed concern about the large-scale police operation ‘Strike’ on 7 May, which took place in the framework of penal law investigations and arrests concerning an organised crime scheme. The police operation resulted in the seizure of caravans, leaving 90 families with children homeless.” (p. 90)

5. Asylum, visas, migration, borders and integration

“Reception capacity also remained far too little in **Belgium** and France. In **Belgium**, the vast majority of centres for asylum applicants reached or exceeded full capacity.” (p. 120)

6. Information society, privacy and data protection

“Individuals may mandate a “not-for-profit body, organisation or association” to represent them, according to Article 80 (1) of the GDPR. Pursuant to Article 80 (2), Member States may decide to allow such bodies to launch legal proceedings without a mandate from data subjects. Only four Member States have made this possibility law: **Belgium**, France, the Netherlands and Poland.” (p. 145)

7. Rights of the Child

“Compared to 2017, AROPE rates [(at risk of poverty or social exclusion EU indicator)] increased in 2018 – slightly but perceptibly – in some Member States with generally low AROPE rates. In **Belgium**, Denmark, Finland, France, Slovakia, Sweden and the United Kingdom, data show an increase of 0.7 to 2.5 percentage points” (p.167)

8. Access to Justice

“The European Commission urged nine Member States (Czechia, Estonia, Germany, Hungary, Italy, Malta, Poland, Portugal and Sweden) to finish incorporating the Victims’ Rights Directive into

national law. It sent them letters of formal notice on 25 July 2019. The Commission also sent Reasoned Opinions to thirteen other Member States, namely Austria, **Belgium**, Bulgaria, Croatia, Cyprus, Finland, France, Greece, Latvia, Lithuania, Luxembourg, the Netherlands and Slovakia.” (p. 188)

“**Belgium** introduced new legal measures on providing emergency assistance to victims of terrorism. It changed the structure of the Commission for Financial Assistance to Victims of Intentional Acts of Violence, by creating a specific division in charge of terrorist acts. That should help to speed up compensation for victims of terrorism in particular.” (p. 190)

9. Developments in the Implementation of the Convention on the Rights of Persons with Disabilities

“In **Belgium**, several cases addressed issues of reasonable accommodation. In the first, the court found that a man with a long-term illness was wrongly denied incapacity benefits since he was not offered reasonable accommodation at his workplace. The second concerned a woman who was dismissed after she asked for a position adapted to her capacity as a person with a disability. In both cases, the labour courts found that the health insurance company and the employer, respectively, had discriminated against people with disabilities in failing to provide reasonable accommodation.” (p. 219)

“Similarly, the UN Committee on the Rights of the Child expressed its concern at the lack of progress in inclusive education in **Belgium**. It noted ongoing discrimination against children with disabilities in education and an increase in the number of children in special education in the French-speaking community.” (p. 220)

Fundamental Rights Report 2019 (June 2019)

<https://fra.europa.eu/en/publication/2019/fundamental-rights-report-2019>

1. Implementing the Sustainable Development Goals in the EU: A Matter of Human and Fundamental Rights

“In addition, some institutions contribute in a more targeted way to the monitoring of the implementation of SDGs at national level. The Institute for Human Rights in the Netherlands, for instance, is expected to report on the implementation of the SDGs in 2019. The **Belgian** Institute for Equality of Women and Men, the Romanian Institute for Human Rights, and the Slovak Centre for Human Rights have participated actively in consultations or are members of specially created national bodies observing the implementation of SDGs. However, this type of involvement is not widespread.” (pp. 29-30)

“The Institute for the equality of women and men in **Belgium** is actively involved in exercises on the use of indicators for the monitoring of SDG implementation and is emphasising the importance of disaggregating those indicators by sex in interactions with the Federal Planning Bureau and the statistical office.” (p. 30)

3. Equality and non-discrimination

“National actions plans to improve the security, welfare and equal opportunities for LGBTI persons were adopted in **Belgium**, Denmark, Luxembourg, Portugal, Italy, Malta, the Netherlands and the

United Kingdom.” (p.67)

“Following recommendations from the EU and many international organisations, some EU Member States simplified their laws relating to legal gender reassignment, based on self-determination (Portugal, **Belgium**, Luxembourg). Some Member States introduced non-binary gender markers into their laws (Austria, Germany, the Netherlands). New case law at national and European levels also helped strengthen the right to self-determination.” (p. 69)

“In January, **Belgium** modified the requirements for transgender persons to adjust how the civil registry records their gender.⁶⁶ The law abolished the strict medical conditions for legal gender reassignment, which required sterilisation or sex reassignment surgery. The procedure is now solely administrative. A transgender minor, from the age of 12, may request a change of their first name with the assistance of a parent or legal representative.” (p. 69)

“In *Lachiri v. Belgium*, the applicant had been excluded from a courtroom on account of her refusal to remove her headscarf. The ECtHR found that the exclusion of an ordinary citizen, not representing the State, from the courtroom had amounted to a restriction on the exercise of her right to manifest her religion, and the need for the restriction had not been justified, in violation of Article 9 of the ECHR.” (p. 71)

“In **Belgium**, the Tribunal of Ghent ruled in two cases that a burkini ban in swimming pools amounts to indirect discrimination on the ground of religious beliefs. Although it stems from a neutral general requirement to wear a swimming suit to access the pool, it affects Muslim women who want to wear a burkini for religious reasons.” (p. 71)

“In **Belgium**, the Flemish government’s Department of Work and Social Economy, as part of its broader anti-discrimination policy, has created incentives for economic sectors to develop binding sectoral codes of conduct against all forms of discrimination. The government will financially support actions leading to their adoption. As a further incentive, the government will provide resultsbased compensation to the sectors if the reports sent in by the sectors receive positive evaluations.” (p. 74)

“Education also featured prominently in studies on discrimination. It drew attention from equality bodies and public authorities in **Belgium**, Cyprus, Denmark, the Netherlands and Portugal.” (p.75)

“A large-scale study on inequalities and discrimination in education systems looked at ethnic origin, socioeconomic origin, sexual orientation and disability, at the request of the **Belgian** Equality Body (Unia). It showed how certain minority groups are redirected towards a less favourable curriculum in higher education. The report made several recommendations to remedy the systemic deficiencies found, including the adoption of registration procedures that contribute better to social diversity; introducing measures to combat harassment of LGBTI pupils; and enhancing reasonable accommodation for pupils with disabilities.” (p. 75)

4. Racism, xenophobia and related intolerances

“In **Belgium**, Amnesty International interviewed over 48 police officers and officials applying qualitative research methodology in nine local police zones about discriminatory practices during policing and identity checks. Half of the police officers believe that ethnic profiling happens and they often lack the tools to avoid it or prevent it, the research findings reveal. There is no clear and coherent policy on identity checks, according to the interviewees, as there are no guidelines, instructions, training or monitoring on identity checks.” (p. 97)

6. Asylum, visas, migration, borders and integration

“Last year, FRA reported an increase in alleged mistreatment of migrants and refugees who crossed borders by circumventing border controls. This trend continued in 2018. Allegations of abusive behaviour by police or border guards concerned, in particular, **Belgium**, Croatia, France, Greece, and Italy. [...] “In **Belgium** and France, the alleged mistreatment involved people who intended to travel to the United Kingdom without authorisation. In **Belgium**, Médecins du Monde surveyed 440 persons; 51 of them presented credible allegations of police violence – inflicted, for example, when they refused to give their fingerprints.” (p. 133)

“In its 2018 Fundamental Rights Report, FRA expressed serious concern about the intimidation of humanitarian workers and volunteers who support migrants in an irregular situation. Authorities continued to use intimidation techniques targeting not only civil society rescue vessels deployed in the Mediterranean (see Section 6.1.1), but also volunteers and NGOs active in the EU. For example, in **Belgium**, two journalists, a social worker, and a fourth person faced trial because they had given shelter or otherwise supported migrants. The fourth person spent eight months in pre-trial detention; the social worker spent two months there, having to stop breastfeeding her new-born son.” (p. 134)

7. Information society, privacy and data protection

“In the GDPR, Article 80 (1) enables qualified entities, such as not-for-profit bodies, organisations or associations that have been properly constituted in accordance with the law of a Member State, have statutory objectives which are in the public interest, and are active in the field of the protection of data subjects’ rights and freedoms with regard to the protection of their personal data, to lodge complaints on behalf of individuals. For example, the Austrian not-for-profit organisation NOYB filed four complaints over “forced consent” against Google (in France), Instagram (in **Belgium**), WhatsApp (in Germany) and Facebook (in Austria) with these Member States’ data protection authorities. But the GDPR goes further, as Article 80 (2) allows Member States to provide in their national legislation that not-for-profit organisations may also lodge complaints independently of a data subject’s mandate. This is one of the “specification clauses” of the GDPR, meaning that Member States may choose to implement this article or not. A few countries, including **Belgium**, Germany, Hungary and Slovakia, include that possibility in their national legal frameworks incorporating the GDPR, according to FRA’s data collection.”

“At national level, most research and analysis [in the area of artificial intelligence] launched in 2018 focused on the economic opportunities for each country: seven Member States (Austria, **Belgium**, Bulgaria, Lithuania, Estonia, Finland and Sweden) dedicated their initiatives to the evaluation of the impacts on the industry or the labour market; six Member States [...] on the need to reinforce research and education; and 13 Member States focused on the impact of AI on dedicated sectors [...].” (p. 158)

8. Rights of the child

“In **Belgium**, the Flemish government adopted a new child benefits system, called ‘Groeipakket’ (Growth Package). It consists of three fixed benefits, which apply to every child residing in the Flemish region: a one-off amount for each birth or adoption; a fixed monthly amount, which is the same for each child; and an additional ‘school bonus’ for each child, delivered in August.” (p. 181)

“The SDG framework calls on governments to design and implement national policies that link social sustainability with the fight against poverty, including child poverty. The majority of the VNR reports that EU Member States have submitted since 2016 include such references. For example, the reports by **Belgium**, Cyprus, Hungary, Latvia, Lithuania, Malta, Poland, Portugal and Spain contain comprehensive overviews and detailed information on their actions in fighting child poverty.” (p. 182)

“At the international level, 2018 was the first year the Committee on the Rights of the Child took decisions based on the individual complaints framework established in the Third Optional Protocol to the CRC.⁴⁸ Fifteen EU Member States have now ratified the protocol (**Belgium**, Croatia, Cyprus, Czechia, Denmark, Finland, France, Germany, Ireland, Italy, Luxembourg, Portugal, Slovakia, Slovenia and Spain).” (p.183)

“Some Member States, however, created new detention centres or introduced legal changes that facilitate detention. In July 2018, **Belgium** inaugurated a new closed detention centre for families with children pending return. The NGO Children on the Run has strongly criticised the facility. The Flemish and French speaking offices of the Children’s Rights Commissioner visited the facilities and presented an opinion in September 2018. He expressed concern about the extensions of the maximum period of stay, and noted stress within the families and fear among the children.” (p. 186)

“**Belgium**, Bulgaria, Denmark, Estonia, Hungary, Latvia, Lithuania, the Netherlands, Romania, Sweden and the United Kingdom provide legal aid for children without any income requirements.” (p. 187)

9. Access to justice

“At the national level, during 2018, legislative measures were adopted or entered into force in almost two thirds of the Member States. They were largely to better implement and reflect the Victims’ Rights Directive (2012/29/EU). These Member States are **Belgium**, Croatia, Czechia, Estonia, Greece, Hungary, Ireland, Italy, Lithuania, Malta, the Netherlands, Portugal, Romania, Slovakia, Slovenia, Spain and Sweden.” (p. 206)

“In 2018, Member States took measures to implement other aspects of the Istanbul Convention, such as the prohibition of female genital mutilation. A new **Belgian** law coming into force on 1 September 2019¹⁰³ introduces an obligation for doctors to break confidentiality and report all cases of female genital mutilation, rather than solely those of minors or vulnerable persons, as was previously the case.” (p. 206)

“Another crucial aspect concerns criminalisation of and increased punishment for acts of violence committed against a partner, in line with Article 46 (a) of the [Istanbul] convention. The following Member States already specify that committing a violent act against a partner or ex-partner is an aggravating circumstance: Austria, **Belgium**, Estonia, France, in some cases – Italy, Latvia, Malta, Portugal, Slovakia and the United Kingdom.” (p.210)

“The Brussels Region of **Belgium** initiated an awareness and prevention campaign on sexual violence and intimidation. The region funded the development of an app, ‘Touche pas à ma pote’, that allows women to report any instance of sexual violence or intimidation. The objective is to pinpoint high-risk neighbourhoods, thus helping the police to monitor such neighbourhoods or facilitate intervention. The campaign and accompanying app launched in March 2018.” (p. 211)

10. Developments in the implementation of the Convention on the Rights of Persons with Disabilities

“In February, the **Belgian** National High Council for people with disabilities, which works at the federal level on issues affecting the lives of persons with disabilities, issued an own-initiative opinion on the country’s 2017 National Reform Plan. The opinion set out the High Council’s concerns about challenges faced by persons with disabilities in the areas of employment, education, pensions and poverty.” (p. 233)

Thematic Reports

Business and human rights – access to remedy (October 2020)

<https://fra.europa.eu/en/publication/2020/business-human-rights-remedies>

“Since 2013, 15 of the 27 EU Member States have adopted [National Action Plans] on business and human rights, namely **Belgium**, Czechia, Denmark, Finland, France, Germany, Ireland, Italy, Lithuania, Luxembourg, the Netherlands, Poland, Slovenia, Spain and Sweden. Other Member States, such as Greece, Latvia and Portugal, are in the process of adopting one or have committed to doing so.” (p. 88)

Roma and Travellers in six countries (September 2020)

<https://fra.europa.eu/en/publication/2020/roma-travellers-survey>

Due to the large number of references to Belgium in this report, this section has been placed in a separate Annex.

Antisemitism: Overview of anti-Semitic incidents recorded in the European union 2009-2019 (September 2020)

<https://fra.europa.eu/en/publication/2020/antisemitism-overview-2009-2019>

This annual overview provides an update of the most recent figures on antisemitic incidents, covering the period 1 January 2009 – 31 December 2019, across the EU Member States, where data are available. Data for **Belgium** can be found on pp. 27-31.

“In 2018, the [International Holocaust Remembrance Alliance working definition of antisemitism] was adopted or endorsed by the governments of Belgium, Lithuania, the Netherlands, North Macedonia, Slovakia, Slovenia and Sweden.” (pp. 92-93)

Strong and effective National Human Rights Institutions – challenges, promising practices and opportunities (September 2020)

<https://fra.europa.eu/en/publication/2020/strong-effective-nhris>

“Awareness of NHRIs varies widely by country, from 96 % in Slovenia to 27 % in **Belgium** (see Figure 1).” (p. 8)

“In some countries (**Belgium**, Bulgaria and Sweden), the NHRI is an equality body (because of its limited mandate it does not have A-status).” (p. 29)

“The 1965 International Convention on the Elimination of Racial Discrimination (ICERD) allows that a state may appoint “a body within its national legal order which shall be competent to receive and consider petitions from individuals and groups of individuals within its jurisdiction who claim to be victims of a violation of any of the rights set forth in this convention and who have exhausted other available local remedies.”. 15 All 30 countries covered by this study are parties to the convention but of these, only **Belgium**, Luxembourg and Romania have made such a declaration.” (p. 30)

All countries covered by this report are parties to OPCAT, except four (**Belgium**, Ireland and Slovakia have only signed and Latvia has not even signed).” (p. 31)

“Of the 30 countries covered by this report, five – all EU Member States (Czechia, Estonia, Italy, Malta and Romania) – currently do not have an accredited NHRI. In addition to the developments in these five countries, at least three other EU Member States (**Belgium**, Slovenia and Sweden) are taking initiatives to ensure their NHRIs’ compliance with the Paris Principles.” (p. 34)

“**Belgium** has a B-status NHRI, the Interfederal Centre for Equal Opportunity and the fight against racism and discrimination (Unia), an equality body. 63 In 2019, the Chamber of Deputies of **Belgium** adopted a draft law on the creation of a federal institution for the promotion and protection of human rights. The legislation references the Paris Principles in relation to its independence (Article 6) and includes several aspects from these principles. The new institution aims to ensure concerted action with existing specialised agencies (Article 3, second indent) and will have a mandate for human rights issues not covered by these other entities – “residual competence” (Article 4(2). The law creating this institution also includes the potential to set up a collaborative council should there be an interfederalisation of the institution through a cooperation agreement. This would make it possible for the newly interfederalised institution to apply for A-status. The new institution is scheduled to start work during 2020.” (p. 36)

“Leadership tenure is in particular relevant if parliament is involved in selecting the NHRI’s leadership. The leadership tenure exceeds that of the parliament for NHRIs in 17 of the 30 states covered (Austria, **Belgium**, Bulgaria, Croatia, Cyprus, Czechia, Estonia, Hungary, Latvia, Netherlands, Poland, Romania, Slovenia, Spain, Sweden – and in North Macedonia and Scotland, where the NHRIs’ leadership is appointed by government).” (p. 47)

“Among the institutions covered in this report, 15 seek to ensure pluralism through the composition of their decision-making collegial bodies – the commission-type NHRIs. Figure 9 provides an overview by country and institution. Pluralistic representation is further enhanced in some of these institutions through additional advisory bodies. Such bodies can have a broader scope, as in the case of Denmark and the Netherlands, or a more targeted one, for example in **Belgium** and the United Kingdom, where advisory bodies are established to deal with issues related to disabilities.” (p. 49)

“In terms of their leadership, 17 of the 33 NHRIs are led by a woman and 15 by a man, while **Belgium’s** NHRI is led by design by male and female co-directors.” (p. 53)

“The findings of FRA’s questionnaire sent to NHRIs show that almost all institutions address their annual reports to parliaments; however, these reports are not always subject to parliamentary discussion, which limits their visibility and impact. Such a discussion is obligatory only in the case of

12 NHRIs [...]. In six NHRIs (**Belgium**, Cyprus, Estonia, Germany, Lithuania and Romania's Institute for Human Rights), a discussion of NHRI reports is not obligatory but usually takes place in practice." (p. 56)

"More frequently, NHRIs reportedly engage in structured cooperation activities involving local authorities (e.g. prevention of torture), which may include cooperating on long-term projects. The NHRIs may do this through local representatives who cooperate with the respective local authorities but also collaborate with municipalities if the institution does not have a physical presence. The **Belgian** NHRI, Unia, for example, regularly cooperates with the 13 Flemish municipalities where it has local contact points, while the Protector of Citizens runs a campaign called "Ombudsman Days", which targets smaller towns and municipalities with awareness-raising events, and presents an annual award to municipalities deemed to have made the most significant contribution to ensuring accessibility for people with disabilities." (p. 65)

"FRA enquired about the extent to which NHRIs covered by this report have the powers to intervene in proceedings before constitutional or equivalent level courts at national level. The aim was to clarify whether an NHRI has this potential, in law or practice and, if in law, if it is explicit or even an obligation under the NHRI's mandate. In 11 of the 30 countries, no mandates for intervention in constitutional court proceedings existed. The NHRIs in three countries had the potential to do so in practice (**Belgium**, Denmark, France and Hungary)." (p. 87)

[A long way to go for LGBTI equality \(May 2020\)](https://fra.europa.eu/en/publication/2020/eu-lgbti-survey-results)

<https://fra.europa.eu/en/publication/2020/eu-lgbti-survey-results>

A country sheet with the results for **Belgium** is available at:

https://fra.europa.eu/sites/default/files/fra_uploads/lgbti-survey-country-data_belgium.pdf

(also annexed to this submission)

"The survey asked respondents who felt discriminated against as LGBTI in any area of life in the year before the survey if they or anyone else reported the most recent incident to any organisation or institution. Overall, across the EU, on average only 11 % were reported anywhere. Higher reporting rates are observed in Luxembourg and Italy (both 19 %), as well as in **Belgium** (16 %). The lowest rates are indicated in Czechia (4 %), Latvia and Slovenia." (p. 35)

"Overall, a higher proportion of respondents indicates reporting the most recent discrimination incident at work (14 %). But there are pronounced differences between survey countries. For example, the reporting rates are 26 % in **Belgium**, 21 % in the Netherlands, and 20 % in Italy. By comparison, in Latvia, almost none were reported (only one incident was). In Slovenia and Slovakia, the reporting rates are around 5–6 %." (p. 35)

"The highest rates of physical or sexual attacks motivated by the victim being LGBTI are observed in Poland (15 %), Romania (15 %), **Belgium** (14 %) and France (14 %). The lowest rates are found in Portugal (5 %) and Malta (6 %). The rates are higher in the candidate countries of North Macedonia (19 %) and Serbia (17 %)." (p. 39)

"The Council of Europe Convention on Human Rights and Biomedicine,* better known as the Oviedo Convention, outlines a range of principles and prohibitions concerning the right to consent, to private life and information, etc. for the protection of human rights in the biomedical field. However, a number of Member States have not signed and/or ratified the convention. These include Austria, **Belgium**, Germany, Ireland, Italy, Luxembourg, Malta, the Netherlands, Poland and Sweden." (p. 54)

Criminal detention conditions in the European Union: rules and reality (December 2019)

<https://fra.europa.eu/en/publication/2019/criminal-detention-conditions-european-union-rules-and-reality>

“National Preventive Mechanisms [(NPMs)]: national monitoring mechanisms established by the Optional Protocol (of 2002) to the UN Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment (OPCAT). The majority of EU Member States are parties to OPCAT. (Four EU Member States are not yet parties. Of these, **Belgium**, Ireland and Slovakia have signed the Protocol. Latvia has not signed).” (p. 12)

“Belgium stipulates a minimum cell space for pre-trial detention cells, but not for prison cells.” (p. 17)

“While many Member States apply the same rules regarding cell space for different categories of detention (e.g. pre-trial custody and detention during a prison sentence), some Member States have different standards in place. For example, **Belgium** applies rules and minimal conditions for pre-trial detention by police, regulated by a legislative act.²⁹ In contrast, there is no national standard in terms of minimum cell space in prisons, with each of the 32 prisons in Belgium having different cell sizes.” (p. 19)

“Furthermore, although some Member States do not have a national standard in place, cell space is in some cases regulated through a detention facility’s guidelines or administrative rules. [...] Other Member States report customary or typical cell spaces (e.g. 9 m² for individual cells in **Belgium**; 5.5–6.5 m² for single cells in the United Kingdom, specifically England and Wales).”

“The ECtHR ruled against **Belgium** in 2017 in *Sylla and Nollomont v. Belgium*. According to the ECtHR, Mr Sylla was detained in a shared cell of 9 m², together with two fellow inmates, while Mr. Nollomont was detained in a cell of 8.8 m² with one other prisoner. The ECtHR deemed such living conditions to be in violation of Article 3 of the ECHR (inhuman and degrading treatment), since Mr. Sylla had less than 3 m² of personal living space, while Mr Nollomont was also detained in conditions contrary to this provision. (In addition to a small living space, the sanitary conditions for Mr. Nollomont were very poor, he had very limited access to activities, and he was exposed to cigarette smoke.)” (p. 20)

“Access to showers and hot water is regulated in 26 EU Member States. [...] In **Belgium**, standards are applicable only to pre-trial detention.” (p. 24)

“In addition, while most Member States have legislation in place ensuring access to hot showers, such legislation does not always specify the frequency of the access that should be provided (e.g. in **Belgium**, Croatia, Cyprus, Italy, the Netherlands, Romania, Spain, Sweden and the United Kingdom).” (p. 24)

“FRA’s research findings show that 24 EU Member States (all but **Belgium**, Czechia, Denmark and Germany) have laws or rules and regulations in place establishing at least the general minimum national standards with regard to access to sanitary facilities – in particular to toilets.” (p. 24)

“The **Belgian** Royal Decree Confinement regulates access to sanitary facilities for pre-trial detention and prescribes that each police cell shall include a toilet and that detainees have the right to have access to all basic needs, including sanitation. However, no standard on access to sanitary facilities in

prisons is prescribed by law in **Belgium**.” (pp. 24-25)

“Detainees’ access to showers remains insufficient in practice. FRA’s findings show that NPMs in several EU Member States (including Austria, **Belgium**, Italy, Latvia and Luxembourg) often highlight the challenge of ensuring frequent and continued access to hot water and access to showers at least twice a week.” (p. 25)

“The insufficient protection of privacy with regard to sanitary facilities is repeatedly highlighted by NPMs. They indicate serious problems regarding the proper separation of sanitary areas in at least 14 EU Member States (including Austria, **Belgium**, Bulgaria, Cyprus, Estonia, France, Germany, Greece, Lithuania, Hungary, Italy, Latvia, Poland and Spain).” (p. 25)

“In *Sylla and Nolloment v. Belgium*, the ECtHR deemed the combination of overcrowding (lack of personal living space of both applicants) and lack of privacy with regard to sanitary facilities, as toilets were located in the cell and were separated by only a wooden partition, providing inadequate privacy, as satisfying the minimum threshold for a violation of Article 3 of the ECHR.” (p. 26)

“In most Member States, healthcare in pre-trial facilities is governed by the same rules as in post-trial facilities; however, there might be some differences. [...] There are no specific provisions in law in **Belgium** regarding pre-trial detention and it relies on the **Belgian** Constitution.” (p. 34)

“In **Belgium**, there is no contingency in the case of a strike, and it is not unusual for multiple prison strikes to occur in a single year. In such situations, the services provided in **Belgian** prisons are limited and, as stated in a communication of 2016 by the National Order of Physicians, there are concerns about how access to healthcare is provided during a strike of prison staff. The National Order of Physicians requests that the **Belgian** government provide some regulation or policy regarding the provision of a minimal level of service to prevent incidents from occurring. The National Order of Physicians suggests transferring the competence in this matter from the Federal Public Service Justice to the Federal Public Service Healthcare.” (p. 37)

“Some Member States (e.g. **Belgium**, Greece and Ireland) are currently in the process of legislating or drafting official guidelines on specific measures for the protection and treatment of LGBTI prisoners.” (p. 41)

[Young Jewish Europeans: perceptions and experiences of antisemitism \(July 2019\)](https://fra.europa.eu/en/publication/2019/young-jewish-europeans-perceptions-and-experiences-antisemitism)

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“At present, the numbers of Jewish Europeans emigrating from Europe because they feel unsafe in their countries are fairly low and stable – with the most obvious exception of France, where recent counts have been much higher than average. Yet there is also evidence of significant recent increases from **Belgium** and Italy.” (p. 8)

[Experiences and perceptions of antisemitism – Second survey on discrimination and hate crime against Jews in the EU \(December 2018\)](https://fra.europa.eu/en/publication/2018/experiences-and-perceptions-antisemitism-second-survey-discrimination-and-hate)

<https://fra.europa.eu/en/publication/2018/experiences-and-perceptions-antisemitism-second-survey-discrimination-and-hate>

A country sheet with the results for **Belgium** is available at:

https://fra.europa.eu/sites/default/files/fra_uploads/fra-2019-2nd-survey-on-discrimination-and-hate-crime-against-jews-in-eu-ms-country-sheet-belgium_en.pdf

(also annexed to this submission)

Hate crime recording and data collection practice across the EU (June 2018)

<https://fra.europa.eu/en/publication/2018/hate-crime-recording-and-data-collection-practice-across-eu>

This report provides detailed information on hate crime recording and data collection systems across the EU, including any systemic cooperation with civil society. Data for **Belgium** can be found on pages 30-32.

“The comparative analysis of the legal framework shows that 13 Member States [...], treat bias motivation as a general aggravating circumstance; 7 provide for specific aggravating circumstances regarding certain substantive offences (**Belgium**, Bulgaria, Greece, Luxembourg, Portugal, Slovakia, Slovenia); 3 have a combination of both general and specific [...]; and 5 have no such provision [...].” (p. 103)

“Twenty-two Member States have included “sexual orientation” as a protected characteristic: Austria, **Belgium**, Croatia, Cyprus, Denmark, Estonia, Finland, France, Greece, Hungary, Ireland, Lithuania, Luxembourg, Malta, the Netherlands, Portugal, Romania, Slovakia, Slovenia, Spain, Sweden and United Kingdom.” (p. 103)

“Sixteen Member States include “disability” as a protected characteristic: Austria, **Belgium**, Croatia, Finland, France, Greece, Hungary, Lithuania, Luxembourg, Latvia, the Netherlands, Portugal, Romania, Slovenia, Spain and the United Kingdom.” (p. 104)

Challenges facing civil society organisations working on human rights in the EU (January 2018)

<https://fra.europa.eu/en/publication/2018/challenges-facing-civil-society-organisations-working-human-rights-eu>

“A recent OSCE report outlines a range of laws criminalising insults or defamation in the EU. **Belgium**, Denmark, Estonia, Luxembourg, Malta and Poland criminalise abusive, offensive or insulting conduct directed at public officials in the course of official business. **Belgium**, Estonia, Lithuania and Malta have criminal laws prohibiting insults to courts and other court officials. [...] **Belgium**, Denmark, the Netherlands, Spain and Sweden have criminalised lèse majesté. [...] Austria, **Belgium**, Cyprus, Germany, Greece, Italy, Luxembourg, the Netherlands, Poland, Portugal and Spain criminalise defaming or disparaging various state institutions, such as governments, parliaments, courts, the armed forces and public bodies or authorities in general.” (p. 24)

“In **Belgium**, civil society expressed concerns that a new constitutional amendment in the counter-terrorism context extended the period of judicial arrest from 24 to 48 hours, and included a proposal – which was ultimately defeated – to extend this period to 72 hours for offences to be defined by law. They noted that this could be applied to protesters for what the law refers to as “participating in public meetings which pose a current threat to public order”. (p. 26)

Second European Union Minorities and Discrimination Survey - Main results
(December 2017)

<https://fra.europa.eu/en/publication/2017/second-european-union-minorities-and-discrimination-survey-main-results>

A country sheet with the results for **Belgium** is available at:

https://fra.europa.eu/sites/default/files/fra_uploads/fra-2019-eu-midis-ii-summary-results-country-sheet-belgium_en.pdf (also annexed to this submission)