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Belgian National Police Union Case. Proceedings Before the European Commission of Human Rights. Communiqug of the Council of Europe, 5 July 1975

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Belgian National Police Union Case
Public Hearings of 8 and 9 May 1975

*Information Memorandum Prepared by
the Registry of the Court*

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The Belgian National Police Union case was referred to the Court by the European Commission of Human Rights on 7 October 1974. The case originated in an application lodged with the Commission by the Union which protects the professional interests of all members of the local police. The applicant Union alleges that Belgium has violated Articles 11 and 14 of the European Convention on Human Rights by refusing to accept it as one of the most representative unions and consequently excluding it from the consultation with trade unions provided for in Belgian legislation.

I. Outline of the Case

1. PRINCIPAL FACTS OF THE CASE

The Belgian National Police Union which has its headquarters at Brussels-Schaerbeek, is open to all members of the municipal police force whose professional interests it protects. This police force is directly subject to the municipalites (*communes*); it is under the authority of the Burgomaster and its members have the status of municipal officials. It numbers more than 10,000 men, but amounts to less than 10 percent of municipal and provincial staff.

As regards relations between the Ministry of the Interior, which is the supervisory authority, and the staff of municipalities and provinces, the Act of 27 July 1961 has introduced a system of trade-union consultation. Under Section 9 of that Act the most representative organizations are to be consulted on a number of matters such as staffing, recruitment and promotion conditions for municipal staff, pecuniary status and salary scales for the staff of provinces and municipalities, etc. The consultation machinery is set in motion for the preparation of any normative provision—(Royal Decree, Decree, Ministerial Circular or even a Bill)—that relates to these matters.

Under a Royal Decree of 2 August 1966, partly amended in 1969, those organizations which are open to all staff of the provinces and municipalities and which defend the professional interests of such staff, shall be deemed to be the organizations most representative of them. Thus debarred from the consultation procedure, the applicant union applied to the Conseil d'Etat to have the Royal

Decree of 2 August 1966 declared void; the Conseil d'Etat dismissed the application by a judgment of 8 November 1969.

2. PROCEEDINGS BEFORE THE COMMISSION

The application lodged with the Commission on 5 March 1970, was declared admissible on 8 February 1972. The Commission then received the written observations of the applicant and the Belgian Government on the merits of the case and heard their oral arguments.

Having ascertained the facts and attempted without success to achieve a friendly settlement, the Commission drew up a report establishing the facts of the case and stating its opinion on the question whether the facts found disclosed any breaches by the Kingdom of Belgium of its obligations under the European Convention on Human Rights.¹ The Commission concluded:

unanimously that the regulations on trade union consultation in Belgium do not constitute a breach of Article 11 § 1 of the Convention;
unanimously that the difference in treatment introduced by the Belgian legislation between different categories of unions is justified in the circumstances of the case and is consistent with Articles 11 and 14, taken together, of the Convention.²

The report contains an individual opinion with which four other members of the Commission have expressed their agreement and which gives a more restrictive interpretation of Article 11 of the Convention than that of the majority. Adopted on 27 May 1974, the report was transmitted to the Committee of Ministers of the Council of Europe on 8 July 1974. Three months later the Commission referred the case to the Court.

3. PROCEEDINGS BEFORE THE COURT TO DATE

A case referred to the Court is generally examined by a Chamber of seven judges. On 12 April 1975, the Chamber constituted to hear the case relinquished jurisdiction in favour of the plenary Court (Rule 48 of the Rules of Court).

Memorials were filed by the Belgian Government on 29 January 1975 and by

¹The report is available to the press and to the public on request to the Registry of the Court.

²*Article 11*: "1. Everyone has the right to freedom of peaceful assembly and to freedom of association with others, including the right to form and to join trade unions for the protection of his interests.

2. No restrictions shall be placed on the exercise of these rights other than such as are prescribed by law and are necessary in a democratic society in the interests of national security or public safety, for the prevention of disorder or crime, for the protection of health or morals or for the protection of the rights and freedoms of others. This Article shall not prevent the imposition of lawful restrictions on the exercise of these rights by members of the armed forces, of the police or of the administration of the State."

Article 14: "The enjoyment of the rights and freedoms set forth in this Convention shall be secured without discrimination on any ground such as sex, race, colour, language, religion, political or other opinion, national or social origin, association with a national minority, property, birth or other status."

the Commission on 25 March 1975. A memorandum from the applicant's counsel was appended to the Commission's memorial.³

By order of 16 April 1975, the President of the Court fixed the date of the opening of the oral hearings for 8 May 1975, at 10 a.m.

After the closure of the hearings, the Court will start its deliberations which are held in private. Judgment will be delivered at a later date.

³The memorials are available to the press and to the public on request to the Registry of the Court.

