



# Economic and Social Council

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## Committee on Economic, Social and Cultural Rights

### Concluding observations concerning the fourth periodic report of Belgium\*

#### Draft prepared by the Committee

1. The Committee on Economic, Social and Cultural Rights considered the fourth report of Belgium on the implementation of the International Covenant on Economic, Social and Cultural Rights (E/C.12/BEL/4) at its 35th and 36th meetings (E/C.12/2013/SR.35 and 36), held on 7 November 2013, and adopted the following concluding observations at its 68th meeting, held on 29 November 2013.

#### A. Introduction

2. The Committee takes note with satisfaction of the submission by Belgium of its fourth periodic report, which is in conformity with the Committee's reporting guidelines, and the written replies to its list of issues (E/C.12/BEL/Q/4/Add.1).

3. The Committee welcomes the open and constructive dialogue with the high-level delegation of the State party, composed of representatives of a number of different ministerial departments and of the federated entities. The Committee also appreciates the answers provided by the delegation of the State party to the questions posed during the dialogue.

#### B. Positive aspects

4. The Committee welcomes the State party's ratification of the following international human rights instruments:

(a) The International Convention for the Protection of All Persons from Enforced Disappearance, on 2 June 2011;

(b) The Convention on the Rights of Persons with Disabilities and its Optional Protocol, on 2 July 2009.

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\* Adopted by the Committee at its fifty-first session (4–29 November 2013).



5. The Committee notes with satisfaction the adoption of laws strengthening the protection of economic, social and cultural rights, which include:

(a) The Royal Decree of 6 December 2012, amending the Royal Decree of 6 October 2005 and promoting and increasing the recruitment and employment of persons with disabilities;

(b) The Act of 28 July 2011 aimed at guaranteeing the representation of women on the boards of directors of public enterprises;

(c) The decree of 15 March 2012 relaxing the nationality requirements for access to jobs in the Walloon regional civil service, as amended by the decree of 10 July 2013;

(d) The Act of 22 April 2012 aimed at combating the wage gap between men and women, as amended by the Act of 12 July 2013; and

(e) The Act of 30 December 2009, introducing various provisions to add belief in freedom of association to the list of grounds for protection.

6. The Committee takes note of the measures taken by the State party which contribute to the implementation of economic, social and cultural rights, and in particular:

(a) Adoption of the comprehensive equal opportunities plan in 2011;

(b) The Top Skills project designed to motivate women to seek managerial posts;

(c) Adoption of the National Plan against Trafficking in Human Beings in 2012;

(d) Adoption of the National Plan of Action against Violence between Partners and Other Forms of Domestic Violence; and

(e) Adoption of the Second Federal Anti-Poverty Plan in 2012.

### **C. Principal subjects of concern and recommendations**

7. The Committee regrets that the Covenant and its provisions are not all directly applicable in Belgian law and are only rarely invoked before the State party's courts and tribunals, and even then from an ancillary or secondary perspective. The Committee also regrets the position taken by the State party whereby all the provisions of the Covenant "do not directly declare subjective individual rights" (E/C.12/BEL/4, para. 10), thus making it difficult to determine their direct effect in Belgian law (art. 2, para. 1).

**The Committee reiterates its previous recommendation that the State party take all appropriate steps to guarantee the direct applicability of the Covenant provisions in its domestic legal order (E/C.12/BEL/CO/3, paras. 24 and 25). The Committee also recommends that the State party take the measures necessary to acquaint lawyers, judges and magistrates with the Covenant in order to facilitate, if need be, its invocation or application by the State party's courts of law. It draws the attention of the State party to its general comment No. 9 (1998) on the domestic application of the Covenant.**

8. The Committee is concerned by the State party's delay in establishing a national human rights institution (art. 2).

**The Committee recommends that the State party accelerate the process under way to establish a national human rights institution in accordance with the Paris Principles adopted by the United Nations General Assembly in its resolution 48/134 of 20 December 1993.**

9. The Committee, while appreciating the efforts undertaken by the State party, regrets that it did not attain its objective of increasing official development assistance to 0.7 per cent of its gross domestic product (GDP) and that this assistance has tended to decrease in recent years (art. 2).

**The Committee recommends that the State party step up its efforts to attain the objective of increasing its international official development assistance to 0.7 per cent of GDP.**

10. The Committee notes with concern that, notwithstanding the legislative initiatives taken by the State party, persons with disabilities and persons of foreign origin continue to be victims of discrimination in the enjoyment of certain economic, social and cultural rights. The Committee further regrets that the Centre for Equal Opportunities does not have the power to take legal action under regional and community legal provisions (art. 2).

**The Committee recommends that the State party ensure that persons with disabilities and persons of foreign origin are able to fully enjoy their economic, social and cultural rights. The Committee encourages the State party to enact a comprehensive national legal framework against discrimination covering all fields liable to discrimination, in accordance with article 2 of the Covenant, and to strengthen the powers of the Centre for Equal Opportunities to enable it to take legal action under regional and community legal provisions. The Committee also recommends that the State party pursue and reinforce its anti-discrimination awareness campaigns among the general public and the various social sectors, as well as the campaigns to promote its measures in support of persons with disabilities at the federal, regional and community levels.**

11. The Committee is concerned at the persistence of the wage gap between men and women in the State party (art. 3).

**The Committee recommends that the State party intensify its efforts to reduce the wage gap between men and women, including by ensuring the effective enforcement of the Act of 22 April 2012, as amended by the Act of 12 July 2013 amending the legislation concerning the gender pay gap. The Committee also recommends that the State party create widespread awareness of this Act among social partners and all who fall under its jurisdiction and continue to promote and enforce its policies in favour of gender equality in the workplace, particularly the policy of gender-neutral job classification.**

12. The Committee notes with concern that youth unemployment among 15–24-year-olds remains high, especially in the Walloon Region (25 per cent in 2011) and the Brussels-Capital Region (45 per cent in 2011) as it does among certain categories, such as persons aged 55 to 64, women, and persons with disabilities. The Committee is also concerned by the disparities in the jobless rate between regions. The Committee is further concerned that, despite the measures taken, the jobless rate among non-European Union migrants continues to be particularly high (30 per cent in 2012) (art. 6).

**The Committee recommends that the State party: (a) strengthen and continue its action to combat youth unemployment effectively, including for the least qualified, and particularly in the Walloon and Brussels-Capital Regions, as well as unemployment among persons aged 55–64, women and persons with disabilities; (b) reinforce the impact of its specific plans and policies to reduce joblessness among non-European Union migrants. The Committee requests the State party to provide in its next report detailed statistical information on the impact of its unemployment reduction measures and to evaluate them on a regular basis. The Committee draws the State party's attention to its general comment No. 18 (2005) on the right to work.**

13. The Committee is concerned at the fact that the right to strike is not explicitly guaranteed in law. It is further concerned that the procedures and conditions for exercise of the right to strike and the numerous legal proceedings instituted by employers may obstruct that right (art. 8).

**The Committee recommends that the State party guarantee the exercise of the right to strike in law and in practice, in full compliance with the Covenant.**

14. **The Committee requests the State party to provide, in its next report, comprehensive information on the impact of the new system established in 2012, affecting the scale of reductions in unemployment benefits, on the enjoyment of the economic, social and cultural rights of unemployed persons (art. 9).**

15. The Committee is concerned at reports that employers sometimes fail to fulfil their maternity protection obligations, using other pretexts to dismiss the women concerned (art. 10).

**The Committee recommends that the State party ensure effective enforcement of the legislation in order to protect women on maternity leave against unjustified dismissal connected with their condition. The State party is also encouraged to circulate its legislation widely among employers and to conduct inspections in order to combat possible abuses.**

16. While noting the strengthening in 2012 of legislation to combat domestic violence, the Committee expresses concern at its persistence, especially violence against women. The Committee is particularly concerned at the fact that a number of women and girls with disabilities are victims of domestic violence and has doubts about the appropriateness of the resources allocated by the State party to protect and assist them. The Committee remains concerned that the State party has not adopted specific legislation on domestic violence (art. 10).

**The Committee recommends that the State party adopt specific legislation on domestic violence, especially violence against women. The Committee draws the State party's particular attention to the domestic violence suffered by women and girls with disabilities and recommends that the State party ensure that they receive adequate protection and assistance, and facilitate victims' lodging of complaints. In this regard, the Committee recommends that the State party take account of the situation of disability of certain victims. The Committee further recommends that the State party continue to implement its National Plan of Action 2010–2014 and step up its domestic violence awareness campaigns.**

17. The Committee is concerned by the persistence of the practice of corporal punishment, including in the family context. It regrets the State party's decision not to enact specific legislation expressly prohibiting corporal punishment in all places. The Committee is also disturbed by the extent of child abuse and the persistence of the problem of street children (art. 10).

**The Committee recommends that the State party review its position and consider enacting specific legislation expressly prohibiting corporal punishment everywhere. It further recommends that the State party take additional measures to combat child abuse, including in terms of protection and assistance. The State party is also encouraged to step up its campaigns to raise public awareness concerning child abuse.**

18. The Committee is disturbed by the poverty experienced by the most underprivileged and marginalized sectors of the population in the State party, notably children and persons of foreign origin. The Committee regrets the lack of information on the impact that measures taken in the area of poverty reduction and social integration — including the First

Federal Anti-Poverty Plan, the National Action Plan for Social Inclusion and against Poverty 2008–2010 — have had on poverty reduction (art. 11).

**The Committee encourages the State party to put in place stronger measures to combat the poverty experienced by the most underprivileged and marginalized sectors of the population, including children and persons of foreign origin. The Committee recommends that the State party continue to implement its Second Federal Anti-Poverty Plan and strengthen the other federal and regional measures, ensuring that they have a real impact on poverty reduction. The Committee further recommends that the most underprivileged and marginalized sectors of the population in the State party continue to benefit from more specific anti-poverty action. The Committee draws the attention of the State party to the Statement on poverty and the International Covenant on Economic, Social and Cultural Rights, adopted by the Committee on 4 May 2001 (E/2002/22-E/C.12/2001/17, annex VII).**

19. The Committee is concerned by the difficulties that low-income individuals, marginalized and underprivileged sectors of the population and persons of foreign origin encounter in gaining access to housing. It also regrets the shortage of social housing units, and limited access to such housing by those in need (art. 11).

**The Committee recommends that the State party put in place stronger measures to promote access, without discrimination, to adequate, housing for low-income persons, marginalized and underprivileged population sectors, and persons of foreign origin. The Committee also recommends that the State party pursue the policy of construction of social housing launched in the various regions and promote access to such housing for these population groups. The State party is encouraged to consider adopting a national strategy on access to housing. The Committee draws the attention of the State party to its general comment No. 4 (1991) on the right to adequate housing.**

20. The Committee is concerned at the considerable number of homeless persons and at the inadequacy of measures taken to remedy the situation. It is also concerned by the lack of information on protection against forced evictions (art. 11).

**The Committee recommends that the State party firmly combat homelessness by addressing its root causes. It also recommends that the State party enact legislation to protect individuals from forced evictions, in line with international standards, including the obligation to ensure that no person is rendered homeless or vulnerable to the violation of other human rights as a result of eviction. The State party is referred to the Committee's general comment No. 7 on the right to adequate housing: forced evictions.**

21. The Committee is concerned by reports of difficulties encountered by small farmers, especially young farmers, in Belgium, which can impede their enjoyment of economic, social and cultural rights (art. 11).

**The Committee recommends that the State party protect small-scale farming in Belgium and implement the plans designed to preserve it. The Committee also recommends that the State party take into account the Voluntary Guidelines to Support the Progressive Realization of the Right to Adequate Food in the Context of National Food Security adopted by the Food and Agriculture Organization of the United Nations (FAO) in November 2004 (Voluntary Guidelines on the Right to Food) and the Voluntary Guidelines on the Responsible Governance of Tenure of Land, Fisheries and Forests in the Context of National Food Security, adopted in May 2012 by the FAO Committee on World Food Security, promoting the adoption of specific support measures for small farmers, by safeguarding and enhancing their access to agricultural land.**

22. The Committee is concerned by reports that the State party's policy for promoting agrofuels, in particular its new Agrofuels Act of 17 July 2013, is likely to encourage large-scale cultivation of these products in third countries where Belgian firms operate and could lead to negative consequences for local farmers (art. 11).

**The Committee recommends that the State party systematically conduct human rights impact assessments in order to ensure that projects promoting agrofuels do not have a negative impact on the economic, social and cultural rights of local communities in third countries where Belgian firms working in this field operate.**

23. The Committee notes with concern that many children with disabilities in the State party still attend special schools and are not included in the mainstream education system (arts. 13 and 14).

**The Committee recommends that the State party strengthen its efforts to include children with disabilities in the mainstream education system, by adapting existing facilities and taking all the necessary measures to ensure that children with disabilities fully exercise their right to education on an equal footing with other children. The Committee draws the attention of the State party to its general comment No. 13 (1999) on the right to education.**

24. The Committee regrets that it has not received adequate information on the impact of federal and regional measures taken with regard to enjoyment of cultural rights by the various minorities residing in its territory (art. 15).

**The Committee requests the State party to step up its efforts towards full enjoyment of their cultural rights by the various minorities residing in its territory.**

25. **The Committee encourages the State party to consider ratifying the Optional Protocol to the International Covenant on Economic, Social and Cultural Rights.**

26. **The Committee encourages the State party to consider ratifying the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families and the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment.**

27. **The Committee requests the State party to disseminate these concluding observations widely at all levels of society, in particular within the civil service, the judiciary and civil society organizations and to inform it in its next periodic report of the measures it has taken to implement them. It encourages the State party to involve civil society organizations in the process of discussion at the national level prior to the submission of its next periodic report.**

28. **The Committee requests the State party to submit its fifth periodic report, pursuant to the guidelines adopted by the Committee in 2008 (E/C.12/2008/2), by 30 November 2018.**