



Economic and Social Council

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Committee on Economic, Social and Cultural Rights

Follow-up progress report on individual communications*

I. Introduction

The present report is a compilation of information received from States parties and authors on measures taken to implement the Views and recommendations on individual communications submitted under the Optional Protocol to the International Covenant on Economic, Social and Cultural Rights. The information has been processed in the framework of the follow-up procedure established under article 9 of the Optional Protocol and rule 21 of the rules of procedure under the Optional Protocol.

II. Communication

Walters v. Belgium (E/C.12/70/D/61/2018)

Date of adoption of Views: 12 October 2021

Subject matter: The author of the communication was forced to leave his rented accommodation following a termination of the lease based on local legislation, which included six months' notice and the payment of compensation equivalent to six months' rent. In the authors' view, the eviction constituted a violation of article 11 (1) of the Covenant, as the State party had allowed the lessor to break the lease agreement without cause, had allowed the tenant to be evicted without having first found alternative accommodation and had not guaranteed that the author's intersectoral vulnerability, owing to his socioeconomic status and age, was properly considered.

Article violated: Article 11 (1) of the Covenant.

1. Committee's recommendations in respect of the author

1. The State party is under an obligation to provide effective reparation to the author, in particular:

(a) If the author does not have adequate housing, to reassess the author's state of necessity with a view to allocating social housing to him or providing him with any other measure enabling him to live in adequate housing in accordance with the criteria set out in the Views;

(b) To compensate him for the violations suffered;

* Adopted by the Committee at its seventy-fifth session (12 February–1 March 2024).



(c) To reimburse him for the legal costs reasonably incurred in submitting the communication.

2. Committee's general recommendations

2. The State party has the following obligations:

(a) To review its current legislation that allows the landlord to terminate the lease without cause in order to introduce flexibility and special measures to avoid a disproportionate impact on the right to adequate housing of disadvantaged groups, such as older persons in disadvantaged socioeconomic situations;

(b) To regularly evaluate legislation that allows the landlord to terminate the lease without cause in order to assess the overall impact of those regulations on the enjoyment of the right to adequate housing, in particular for disadvantaged groups, and, if necessary, make the necessary adjustments to protect that right;

(c) To take the necessary measures, to the maximum of available resources, to ensure that disadvantaged groups, such as older persons in unfavourable socioeconomic situations, who are evicted from their homes have access to alternative accommodation that meets their particular needs and provides them with stability and security commensurate with their age and circumstances.

3. Submission from the State party

3. By note verbale dated 21 April 2022, the State party submitted its response to the Committee's recommendations.

4. Regarding the first recommendation in respect of the author, the State party submits that it did not await the views of the Committee before proposing alternative accommodation to the author, and that it provided him with options even before his eviction. The State party refers to its submissions in the context of the individual communication and reiterates that different options were proposed by regional and communal authorities, which were systematically refused by the author. The State party adds that, since the adoption of the Views, on 12 October 2021, the author has not tried to contact the federal or regional authorities. It notes that the author is on the waiting list of the Public Social Welfare Centre and of the Etterbeek Social Housing Agency, but has to date refused all the different proposals he has received and all the different offers for assistance in his search for housing. Regarding the reimbursement of legal costs, the State party observes that the author has benefited from legal and judicial assistance during the entire procedure of submitting the communication to the Committee and has thus not incurred any personal costs.

5. With regard to the general recommendations, the State party refers to the text of article 3 of the Brussels Housing Code, which protects the right to decent housing. The State party submits that several measures are being taken, notes that the public resources available to designate the implementation of the right to housing are limited and submits that the public authorities have to help all the vulnerable groups in need of assistance and avoid discrimination by prioritizing certain groups of individuals.

6. The State party submits that it has complied with the recommendation to evaluate the legislation related to the right to housing by requesting an evaluation by four independent lawyers, which was presented to the regional government on 30 June 2021 and contained 525 pages. The State party also submits that that document is currently being analysed and translated into specific legislative reform. The State party adds that, on 18 June 2020, the government of the Brussels-Capital Region instated a scientific committee on housing, mandated to identify the specific challenges related to housing in an urban environment in the context of the crisis related to the coronavirus disease (COVID-19), for the Brussels-Capital Region. The State party argues that those two initiatives clearly demonstrate the willingness of the authorities to create a scientific and objective assessment that can be used to produce the necessary legislative reforms.

7. The State party also submits that the regional government is discussing a draft law to include rules of procedure regarding judicial expulsion and other modifications in the Brussels Housing Code. It notes that the preamble of this draft law contains specific reference

to the decision by the Committee and contends that the measures contained in the draft law will contribute to preventing evictions from causing disproportionate effects for the affected persons, in particular vulnerable persons.

8. The State party refers to a further amendment of the Brussels Housing Code, which is aimed at updating the rules related to non-discrimination in the realm of housing. The State party argues that this will contribute to efforts to ensure that the group identified by the Committee, namely older persons in unfavourable socioeconomic situations, have specific judicial protection against discrimination. The State party notes that other measures will be announced in the long term, including a legal revision process related to the provisions regarding lease agreements, which will include a revision of the rules related to anticipated termination of a lease agreement for both the landlord and the tenant. The State party adds that it will continue working on other measures, including efforts to simplify the procedure for social housing companies to acquire additional properties, and measures to fight against housing units remaining unoccupied by guaranteeing that they can be offered to tenants at affordable prices.

4. Comments by the author

9. On 26 September 2022, the author submitted his comments on the State party's observations.

10. The author notes that none of the recommendations adopted by the Committee that related to him were implemented by the State party. The author contends that, even though the State party was to provide him with an effective reparation, the authorities did not even try to contact him. The author submits that, to date, he does not have an appropriate dwelling and is obliged to request the help of third parties to ensure his temporary shelter. The author contends that, since the adoption of the Committee's Views, the State party has not re-evaluated his needs to provide him with social housing and has not taken any other appropriate measures to provide him with adequate housing in line with the Views. The author states that he has renewed his three registrations with the relevant lists to request social housing. He submits that he has never refused or declined to answer a proposal for adequate housing, which is demonstrated by the fact that he was allowed to renew his registration on the lists for social housing.

11. The author points out that the State party has never proposed compensating him for the damage he suffered and notes that the State party is silent about that recommendation in its observations sent to the Committee. The author mentions that he has not benefited from free legal and judicial assistance during the procedure of submitting the communication to the Committee and that he did incur personal costs with regard to the costs and honorary fees of a lawyer.

12. Regarding the general recommendations, the author notes that the State party mentions a number of studies and legal proposals, but that it did not provide any texts or precise information as to how they would ensure the implementation of the Committee's Views and recommendations. The author contends that the State party has limited itself to the presentation of a list of good intentions, which are not specific and the implementation of which has not been guaranteed.

5. State party's further observations

13. On 9 May 2023, the State party provided its observations on the author's comments.

14. With regard to the individual recommendations, it reiterates its comments provided on 21 April 2022.

15. With regard to the general recommendations, the State party denies that the information it presented in its previous submission was a mere inventory of good intentions, as contended by the author. It refers to the draft law related to the modification of the procedure regarding evictions and the creation of a moratorium during winter.¹ It specifies that the amendment to the Brussels Housing Code related to non-discrimination was adopted

¹ See <http://www.weblex.irisnet.be/data/crb/doc/2022-23/147305/images.pdf>.

on 9 June 2022 and entered into force on 30 September 2022² and notes that it has achieved progress on the legal revision process related to the provisions on lease agreements.

6. Author's further comments

16. On 24 June 2023, the author submitted his comments on the State party's further observations.

17. With regard to the implementation of the Committee's recommendations related to him, the author refers to the observations that he submitted on 26 September 2022, recalls that none of the recommendations were implemented and reiterates that the State party's authorities have never tried to contact him.

18. With regard to the implementation of the general recommendations, the author takes note of the legislative amendments mentioned by the State party in its observations of 9 May 2023 and points out that the State party does not address the recommendations issued by the Committee.

19. The author contends that the State party has not taken any specific measures to review and reform the legislation that allows a landlord to terminate a lease without cause in order to assess the overall impact of those regulations on the enjoyment of the right to adequate housing. He argues that the State party has not taken the measures necessary to ensure that disadvantaged groups, such as older persons in unfavourable socioeconomic situations, who are evicted from their homes have access to alternative accommodation that meets their particular needs and provides them with stability and security commensurate with their age and circumstances.

20. The author acknowledges that the modification of the procedure for evictions and the moratorium for the winter mentioned by the State party can strengthen the protection of tenants at risk of eviction, but notes that nothing is included to limit the possibility of a landlord terminating a lease without any motive, even if the tenant respects the contractual obligations. The author notes that this legislative reform will thus not avoid a disproportionate impact on the right to housing caused by the possibility of a landlord terminating a lease without cause. The author mentions that this modification does not provide for any specific measures to ensure that older persons in unfavourable socioeconomic situations have effective access to alternative housing solutions that take into account their particular needs.

21. Regarding the amendment of the Housing Code to include the rules related to non-discrimination, the author recognizes that the efforts of the State party are to be saluted, but argues that they do not specifically address the recommendations of the Committee.

22. The author concludes that, while the legislative reforms envisaged by the State are to be encouraged, they are unfortunately insufficient and do not effectively guarantee the right to adequate housing for vulnerable persons, and specifically for older persons in unfavourable socioeconomic situations.

7. Committee's decision

23. The Committee notes that the author reports that he still does not have an appropriate dwelling and that he relies on the help of third parties to ensure his temporary shelter. The Committee also notes that the State party argues that it has provided the author with several options, even prior to the adoption of the Views, and that the author has not tried to contact the authorities. Conversely, the author contends that he renewed his registration on several lists to request social housing, that he never refused any proposal for social housing and that the State party has never even tried to contact him or propose to compensate him for the damage he suffered. The author also contends that he did incur costs related to the procedure of submitting the communication to the Committee.

24. The Committee also notes that, as the duty bearer, it is the obligation of the State party to proactively contact the author to consult him on the most appropriate manner of implementing the Committee's recommendations in respect of him. The Committee notes

² See <http://www.ejustice.just.fgov.be/eli/ordonnance/2022/06/09/2022041572/justel>.

that the State party does not contest the fact that the author still does not have any adequate housing, that it did not engage in a new assessment of the author's state of necessity and that it did not provide any compensation for the violations suffered. Therefore, the Committee considers that satisfactory action has not yet been taken in relation to its recommendations in respect of the author. The Committee invites the State party to contact the author to strengthen the implementation of the recommendations with regard to the author contained in the Committee's views.

25. With regard to its general recommendations, the Committee notes the advances represented by the efforts to evaluate the legislation related to the right to housing by means of an independent study and by the modifications to the Brussels Housing Code. The Committee welcomes the adoption of a specific amendment of the Housing Code related to non-discrimination and a moratorium on evictions during winter. The Committee notes the efforts of the State party regarding the legal revision process related to the provisions that govern lease agreements. The Committee also notes the author's contention that no specific amendments have been adopted to review and reform the legislation that allows a landlord to terminate a lease without cause or to ensure that vulnerable groups, in particular older persons in unfavourable socioeconomic situations, who are evicted from their homes have access to alternative accommodation that meets their particular needs. The Committee considers that the efforts made by the State party can contribute to compliance with its general recommendations and encourages the State party to continue to make progress and to keep the Committee informed in that regard.

26. On the basis of all the information received, the Committee considers that some initial action has been taken but that further action and additional information on the measures taken are still needed. The Committee decides to continue the follow-up procedure for the present communication and invites the State party to provide information on the measures taken in relation to all of its recommendations. The Committee asks that the required information be sent within 180 days of the publication of the present document and that the Committee be periodically informed when progress is made in respect of its recommendations.
