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Committee on Economic, Social and Cultural Rights Fifty-first session

Summary record of the 35th meeting

Held at the Palais Wilson, Geneva, on Thursday, 7 November 2013, at 10 a.m.

Chairperson: Mr. Kedzia

Contents

Consideration of reports

- (a) Reports submitted by States parties in accordance with articles 16 and 17 of the Covenant (*continued*)

Fourth periodic report of Belgium

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The meeting was called to order at 10.10 a.m.

Consideration of reports

(a) Reports submitted by States parties in accordance with articles 16 and 17 of the Covenant *(continued)*

Fourth periodic report of Belgium (E/C.12/BEL/4; E/C.12/BEL/Q/4 and Add.1)

1. *At the invitation of the Chairperson, the delegation of Belgium took places at the Committee table.*
2. **Mr. de Crombrugghe** (Belgium) said that the periodic report under consideration, which was the result of close collaboration among the various public bodies concerned and also included contributions from NGOs, aimed to provide a comprehensive overview of his country's implementation of the International Covenant on Economic, Social and Cultural Rights. As responsibility for ensuring respect for those rights was shared between the federal Government and the Belgian communities and regions, the membership of the delegation reflected that plurality.
3. **Mr. Vandamme** (Belgium) said that Belgium implemented the Covenant in conjunction with other international instruments, including International Labour Organization (ILO) conventions. In that regard, Belgium had just acceded to the Maritime Labour Convention, 2006 and intended to ratify the ILO Domestic Workers Convention, 2011 (No. 189) in the near future. In addition, it was preparing to deposit its instrument of ratification of the Optional Protocol to the Covenant, and, following a long process of political negotiation, it planned to establish a national human rights institution in the near future.
4. Several agencies ensured respect for the principle of non-discrimination in Belgium, including the Centre for Equal Opportunities and Action against Racism and the Institute for Equality between Women and Men. Anti-discrimination legislation had recently been strengthened with the addition of more prohibited grounds of discrimination, such as trade union membership. In addition, the authorities had recently focused specifically on respect for the rights of persons with disabilities related to access to social services, as recommended in the European Social Charter. With regard to discrimination against women, the 2012 Act on Combating the Wage Gap between Men and Women, as amended in 2013, required management and labour to review the collective agreements establishing salary scales. In addition, an action plan to combat conjugal violence had been adopted, and political pressure was being maintained through legislative proposals on the issue.
5. In order to combat youth unemployment, Belgium planned to adopt the "Youth Guarantee" system established by European institutions, and it also assisted businesses that hired young people by reducing social security payments. Protection of the rights of the child was a major concern for the government authorities, and the Optional Protocol to the Convention on the Rights of the Child on a Communications Procedure was in the process of being adopted by the Senate. Despite the economic crisis, the authorities had sought to maintain the standard of protection offered through social security, which was provided through a wide range of rights and benefits. Foreign workers in a regular situation enjoyed all economic and social rights without discrimination. Efforts were being made to speed up the processing of applications for refugee status, and any rejection of an application was subject to appeal, with suspensive effect on any expulsion order that might be issued. Lastly, Belgium was committed to ensuring the right to education for disadvantaged groups by encouraging their integration in the regular school system and by reducing school-related costs.

6. **Mr. Tirado Mejia** (Country Rapporteur) noted with satisfaction that the State party had ratified several international human rights instruments since the consideration of its previous periodic report in 2007, including the Convention on the Rights of Persons with Disabilities, and that it planned to establish a national human rights institution. However, the State party had not followed up on all the recommendations made in the Committee's previous concluding observations (E/C.12/BEL/CO/3). He asked whether the Covenant was directly applicable under national law and requested further details about the measures taken to combat wage gaps between men and women. He asked whether there were plans to criminalize domestic violence or to expressly authorize the right to strike. Lastly, he wished to know the State party's position on prohibiting corporal punishment.

7. **Ms. Shin Heisoo** asked whether the State party had met the goal it had set for 2010 of allocating 0.7 per cent of its gross domestic product (GDP) to international cooperation. She also wished to know whether the State party had established a mechanism to assess the human rights impact of its official development assistance, in the light of the Maastricht Principles on Extraterritorial Obligations of States in the area of Economic, Social and Cultural Rights. She asked whether any measures had been taken to review the policy on care for persons with disabilities in order to avoid systematic institutionalization and to combat violence against women with disabilities.

8. **Mr. Schrijver**, referring to paragraph 10 of the periodic report, asked the delegation to explain exactly what was hindering the direct application of the Covenant under national law and wished to know whether the State party planned to change the status of the Covenant in the domestic legal order so that the courts could apply it directly.

9. **Mr. Kerdoun** asked whether the former Belgian colonies, including the Democratic Republic of the Congo, were given priority when official development assistance was granted, and he wished to know the criteria for granting such assistance. He asked whether political considerations played a role in determining the level of support provided in the form of bilateral cooperation, and whether the prohibition of discrimination between men and women and freedom of association were enshrined in the Constitution.

10. **Mr. de Crombrughe** (Belgium) said that, due to the economic crisis, the goal of allocating 0.7 per cent of GDP to international cooperation had not been reached in 2010, but in 2011 the percentage amounted to 0.53 per cent of GDP, which was slightly higher than the average among countries of the Organisation for Economic Co-operation and Development. Bilateral aid was negotiated with the recipient countries, which made it possible to determine their needs and the development goals to be achieved. It was not motivated by political considerations or foreign policy imperatives. Bilateral aid projects were implemented by the Belgian Development Agency and were drawn up in consultation with the recipient countries and with only their interests in mind, one of the aims being to help them protect and promote human rights. Belgium had established bilateral cooperation projects with 15 partners, including countries in Central Africa, but also in Asia and Latin America.

11. **Ms. Gallant** (Belgium) said that the provisions of the Covenant that were deemed to be directly applicable in Belgian law corresponded to rights enshrined in the Constitution. It was possible that in the future other rights might be invoked before the courts and that judges might decide to recognize their direct applicability. It had to be admitted that the Covenant was not often invoked by lawyers, who were more apt to refer to European Union instruments.

12. Belgium had long been committed to establishing a national human rights institution. An agreement had been reached to that effect in December 2011. A working group responsible for drawing up a draft agreement establishing an inter-federal principal human rights institution had been set up in September 2012. Over the past few months, its

work had primarily consisted of reviewing the mandates of the institutions to be incorporated into the proposed new institution. The inter-federal principal institution would be responsible for matters concerning, inter alia, discrimination, racism, gender equality, the rights of persons with disabilities and the rights of the child. No date could be given for its establishment, but it should be in place by the time Belgium submitted its next periodic report.

13. **Mr. Vandamme** (Belgium) said that, under the influence of international instruments, Belgium was currently changing its approach to integrating persons with disabilities. For many years, Belgium had focused on specially adapted facilities and services for persons with disabilities rather than on integrating them into a mainstream environment, but the Government was now committed to fully integrating them in society.

14. **Ms. Bynens** (Belgium) said that the Flemish agency for persons with disabilities was responsible for policies on persons with disabilities. A plan recently developed by the Ministry of Social Protection, Public Health and the Family called for facilitating access to professional services and home care for persons with disabilities. Persons with disabilities would receive help directly, which would give them greater autonomy. The funds allocated to aid for persons with disabilities had been increased.

15. **Ms. Moncarey** (Belgium) said that there were nearly 300 specialized services that provided housing or shelter for more than 10,000 young people or adults with disabilities, in addition to adult day services. Reform of the procedures for authorizing and subsidizing care facilities for persons with disabilities was under way. Women and girls with disabilities who were victims of violence were protected under Belgian anti-discrimination legislation and could therefore access all the services available for women victims of violence.

16. **Mr. Dasgupta** asked why Belgian official development assistance had decreased from 0.55 per cent of GDP in 2009 to 0.53 per cent in 2011. He asked whether Belgium had set a new deadline for reaching the goal of 0.7 per cent.

17. **Ms. Bras Gomes** asked whether the State party intended to adopt a general anti-discrimination law that addressed discrimination in the fields of employment and housing. She noted with satisfaction that the Council of Ministers had issued a circular on gender budgeting, and that a bill on that issue would be submitted to parliament. She asked whether any study had been conducted to determine the impact of gender budgeting on policies for women.

18. **Mr. Sadi** asked whether Belgium took account of the Committee's general comments when interpreting or implementing its obligations under the Covenant. He requested information about the main difficulties Belgium faced in the implementation of the Covenant, and he urged the State party to adopt a comprehensive anti-discrimination law.

19. **Mr. de Crombrugghe** (Belgium) said that the amount of money allocated to official development assistance as a percentage of GDP had decreased because of the economic crisis but had nevertheless reached 0.64 per cent of GDP in 2010, which had come very close to the target of 0.7 per cent. The Government had not set any specific date for reaching that target. The State party did take account of the Committee's general comments, though often in addition to other international instruments. The main difficulties Belgium faced when implementing the Covenant were related to budgetary issues and the State's complex structure. The State needed to reorganize its institutions, which had previously been under the supervision of the federal State and were now supervised by the federated entities.

20. The fight against discrimination was an important issue that affected all areas of life, but in practice it was difficult to develop a law that protected all persons. Moreover, the Government was not in a position to adopt cross-cutting legislation on the issue, because according to the Constitution such decisions were to be taken by the federal State and the federated entities.

21. **Mr. Vandamme** (Belgium) said that all legislative provisions on non-discrimination contained the same protection mechanisms. The General Anti-Discrimination Act of 2007 set out a long list of grounds of discrimination. In addition, the principle of non-discrimination was enshrined in the Constitution and in the European Convention on Human Rights, which Belgium had ratified. With regard to the wage gap between women and men, joint commissions were currently examining collective agreements with a view to amending them, as they were considered to be the main cause of gender wage gaps. The federal State used gender budgeting methods systematically, but it was impossible to tell whether that had an impact on policies for women.

22. **Ms. Gallant** (Belgium) said that hate crime was considered an aggravating circumstance under Belgian law. Thus, pursuant to article 405 of the Criminal Code, any person who subjected a woman to violence on account of her disability was liable to a heavy prison sentence. With regard to different forms of discrimination, the Centre for Equal Opportunities and Action against Racism had indicated in its annual report that the courts had often punished cases of discrimination in employment and housing, as well as discrimination against persons with disabilities.

23. **Ms. Shin Heisoo** asked whether the State party had set a goal of ensuring by 2020 that persons with disabilities had access to family care that met their needs, and whether shelters and counselling centres were adapted for women with disabilities who had been victims of violence. She also asked why, despite the State party's strong policies to protect mothers, there were so many complaints filed by pregnant women against their employers. She wished to know whether employers were sufficiently informed about the relevant legislation. She feared that the sheltered workshops established to integrate persons with disabilities into the world of work were in fact places of exploitation.

24. **Mr. Ribeiro Leão** noted with satisfaction that the issue of health and safety in the workplace was linked to the more general principle of "well-being at work" as set out in the Act of 4 August 1996 on workers' well-being, and he asked whether the Act applied to foreign workers.

25. **Ms. Cong Jun** wished to know the results of the national strategy for well-being at work 2008–2012 and asked which institutions were responsible for monitoring health and safety in the workplace.

26. **Mr. Vandamme** (Belgium) said that an employer could not dismiss an employee for exercising her right to maternity leave. Employers were well aware of the legislation to protect mothers. Sheltered workshops were by no means places of exploitation, but on the contrary places adapted to the needs of persons with disabilities.

27. The main stakeholders involved in the national strategy for well-being at work were businesses, for whom the Ministry of Employment conducted awareness-raising campaigns on occupational hazards. A high council for protection and prevention at work comprised representatives of management and labour at the national level and advised on all legislative and regulatory proposals concerning well-being at work. In addition, every Belgian company with more than 50 employees was required to have a committee on health and safety in the workplace. Strategies to achieve well-being at work were assessed according to their objectives, and that assessment was carried out by European committees if the objectives had been set at the European level. The Act on workers' well-being applied to any foreign worker who held a work permit. The Act also applied in cases where a

foreign worker without a work permit had been hired by an employer who believed in good faith that the worker was in a regular situation.

28. **Ms. Bras Gomes** asked whether the gender-neutral job classification system was effective in reducing the wage gap between women and men, why most of the beneficiaries of the system of service vouchers that had come into force in 2004 were women, and whether the State party intended to maintain the level of social protection provided to dependent persons, in view of the country's ageing population.

29. **The Chairperson**, speaking in his capacity as a Committee member, pointed out that the Committee had sent a letter to all States parties on the impact of austerity measures on economic, social and cultural rights. He asked to what extent that letter had helped the State party to decide what measures it should adopt to deal with the crisis.

30. **Mr. Martynov** noted that the youth unemployment rate in Wallonia was twice that of Flanders and asked why there was such a large disparity between the two regions. He also wondered why, for many years, the unemployment rate among immigrants from non-European Union countries had been much higher in Belgium, and especially in Wallonia, compared with the average for the rest of the European Union. He asked whether the Government was carrying out programmes to correct that imbalance. He also asked whether measures were being taken to remedy the fact that only one in three persons between the ages of 55 and 64 years was employed. He requested further information to supplement the State party's written replies on the employment of persons in that age group. He also requested information on the unemployment rate among women and persons with disabilities and on the system used to subsidize the wage costs of persons with disabilities who entered the open labour market. He also asked the State party to include in its next periodic report statistics on the impact of the new social security system.

31. **Mr. Abdel-Moneim** asked whether the Belgian wage indexation system allowed for an increase in the minimum wage. He noted that, according to the periodic report, employers and unions determined a wage norm in the light of the situation of the Belgian economy and the country's competitiveness with neighbouring countries (para. 113), and he asked if that had an impact on increasing the minimum wage. Lastly, he wished to know what position the State party would take if it found that the European employment policy was incompatible with the Covenant.

32. **Mr. Vandamme** (Belgium) said that the system governing wage changes was based on two pillars: the automatic indexation of wages in both the public and private sectors, according to inflation (in other words, the cost of living), and the definition of a wage norm every two years, following discussions to determine whether the economic situation made it feasible to increase wages.

33. **Mr. Van Peteghem** (Belgium) said that, despite austerity measures, the Government had decided to continue to provide assistance to the most underprivileged. In September 2013, it had increased the minimum amount of pensions and the minimum allowances paid to persons with disabilities.

34. With regard to the ageing of the population and its effect on the sustainability of the social security system, he explained that in 40 years the effective retirement age had decreased from 64 to 59 years. Reforms were under way to address the problem, for instance by gradually raising the early retirement age so as to increase the length of contributory service, and by introducing measures to encourage people to continue working, for example by granting bonuses to workers over 65 years of age.

35. **Mr. Vandamme** (Belgium) said that Belgium had been accused of providing overly generous unemployment benefits — with an indefinite compensation period — that did not encourage the unemployed to find another job. That system had been reformed, so that the

amount of the benefits paid to jobseekers was initially higher and then gradually declined. Jobseekers would also attend training courses and would receive assistance in their search for employment. Lastly, the much higher number of women employed through the service voucher system was due to traditional gender role stereotypes with regard to certain types of jobs: for example, men were more likely to be hired to perform gardening work and women for domestic work.

36. **Mr. Atangana** requested clarification about the persistence of violence between partners and the fact that complaints of such violence were dropped before coming to trial.

37. **Mr. Ribeiro Leão** asked whether foreigners, including those in an irregular situation, had access to primary health care.

38. **Mr. Schrijver** asked whether the Act of 2005 on combating human trafficking and the National Plan of Action to Combat Human Trafficking had produced results, and in particular whether they had helped to reduce the number of trafficking victims. He also asked whether it was still true that victims were issued a residence permit only if they collaborated with the police, and if so, whether the State party considered that requirement to be justified.

39. **Mr. Pillay** asked whether the federal anti-poverty plan had yielded results, and in particular whether the percentage of children living below the poverty line, which had stood at 17 per cent in 2010, had declined. He also asked what measures had been taken to address the problem of homelessness and its root causes. He asked what additional measures the State party had taken, other than paying housing allowances, to remedy the shortage of social housing. He also noted the disproportionate number of persons from ethnic minorities living in social housing, especially in large towns, and he asked what measures the State party had taken to correct that imbalance. Lastly, he pointed out to the delegation that in its periodic report the State party had provided information about the removal of aliens, whereas the Committee had asked about evictions.

40. **Ms. Bras Gomes** wished to know whether the efforts to encourage men to become more involved in the domestic sphere had been successful, and she requested statistics in that regard. Concerning the State party's extraterritorial obligations related to the right to food, she requested further information about a case where, according to reports, a project carried out by a Belgian investment company in Sierra Leone had violated the local population's right to food. She also asked what measures the State party planned to take in support of small farmers.

41. **Ms. Cong Jun** wished to know the outcome of the investigations into cases of child pornography and asked what effective measures the State party had taken to combat child pornography on the Internet. She wished to know what measures had been taken to improve access to medical care for vulnerable and disadvantaged groups, including migrant workers and undocumented migrants and members of their families.

42. **Mr. Martynov** requested detailed information about the number of street children.

43. **Mr. Sadi** requested clarification about the number of marriages of convenience contracted in order to obtain Belgian nationality or residency. He asked whether such marriages constituted an offence and whether the measures taken to combat the phenomenon had been effective.

44. **Mr. Tirado Mejia** (Country Rapporteur) drew attention to the effects of biofuel production on small farmers. He requested information about the State party's policies in that regard and on the measures taken to protect small farmers from harm. He noted in that regard that, according to statistics before the Committee, the number of small farmers in Belgium was much smaller than before.

45. **Ms. Shin Heisoo** noted that some foreigners living in Belgium engaged in practices that violated human rights, such as honour crimes and female genital mutilation. She asked whether the State party conducted human rights education programmes for foreigners, so as to inform them that certain cultural practices were not acceptable. Drawing attention to the fact that persons with disabilities appeared to be segregated in Belgium, as indicated by the large number of special schools for children with disabilities, she asked what policy the State had adopted to integrate children with disabilities into mainstream schools.

46. **Mr. Abashidze** asked to what extent the State party's anti-poverty policy was based on the Covenant, and on article 15 in particular, and he wished to know more about any difficulties the State party might face in implementing article 15.

The meeting rose at 1 p.m.