



# Economic and Social Council

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## Committee on Economic, Social and Cultural Rights

### Fifty-first session

#### Summary record (partial)\* of the 36th meeting

Held at the Palais Wilson, Geneva, on Thursday, 7 November 2013, at 3 p.m.

*Chairperson:* Mr. Kedzia

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### Consideration of reports

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*Fourth periodic report of Belgium* (continued)

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\* No summary record was prepared for the rest of the meeting.

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*The meeting was called to order at 3.05 p.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* (continued) (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 Crombrughe** (Belgium) said that the social and economic factors which influenced structural unemployment in Belgium differed from one region to another. At present, for a variety of reasons, the challenges were greater in the south than in other parts of the country. The fact that European Union (EU) nationals tended to be better integrated in the labour market than migrants from outside the EU was a corollary of their socioeconomic backgrounds and the reasons for their migration. Employment opportunities were a motivating factor for all migrants, but possibly more so for EU nationals than for non-EU nationals, who because of their backgrounds were also likely to be less well equipped for immediate employment. Responsibility for addressing employment issues and generating opportunities for vulnerable groups lay with the regional governments.
3. **Mr. Foubert** (Belgium) said that various measures had been adopted in the Brussels region to help young people under 25 years old into work and reduce the disproportionately high rate of youth unemployment, including personalized job-seeking assistance and internships. The measures appeared to be bearing fruit and a slight improvement in the jobless rate for that age group had been noted at the start of 2013.
4. **Ms. Moncarey** (Belgium) said that the Walloon region was also using a variety of strategies, including financial incentives for business owners, on-the-job training, agricultural skills training and first-job agreements, to give young people a springboard into employment.
5. **Ms. Bynens** (Belgium), referring Committee members to paragraph 94 of the periodic report (E/C.12/BEL/4), said that since the economic crisis had erupted in 2008 the Flemish region had been working to increase job opportunities for all young people, irrespective of their skills and education level, through a number of measures. Special programmes were also in place to help unemployed persons over 50 years old, migrants and other vulnerable groups.
6. **Mr. de Crombrughe** (Belgium), noting that Belgium would be reviewed by the Committee on the Rights of Persons with Disabilities in 2014, said that the authorities were compiling detailed statistics on the labour market integration of persons with disabilities but had been impeded by a lack of standardized definitions.
7. **Mr. Van Peteghem** (Belgium) said that the Government of Belgium was fully aware of its obligations under article 31 of the Convention on the Rights of Persons with Disabilities and was working to agree standardized definitions that would facilitate the preparation of harmonized nationwide figures. As was the case elsewhere, the task was not an easy one and for that reason he was currently unable to provide any figures.
8. **Ms. Bras Gomes** asked for information about steps taken to reduce the gender pay gap and implement a gender-neutral job classification system.
9. **Mr. de Crombrughe** (Belgium) said that there had been a switch to gender-neutral job classifications in around three quarters of all collective agreements between employers

and employees. The authorities had received assurances that a similar change would be implemented in other collective agreements. That transition should help to eliminate the discrimination at the origin of many pay discrepancies.

10. **Mr. Martynov**, returning to the issue of unemployment, said that his primary concern was the fact that in Belgium the jobless rate among non-EU nationals was consistently higher than the EU average. Could the delegation explain that disparity?

11. **Mr. Abdel-Moneim** asked how the State party would deal with a situation in which its obligations under EU employment law were in conflict with its obligations under the Covenant.

12. **Mr. de Crombrughe** (Belgium), while conceding that EU labour law had a level of precision not present in the Covenant, which could be open to interpretation and discussion, said that he felt unable to answer a question that was purely hypothetical; his Government saw no contradictions or conflicts.

13. **Mr. Abdel-Moneim** said that academic debate on the issue had concluded that universal instruments always prevailed over regional instruments, as established in Article 103 of the Charter of the United Nations. Recalling a letter that the Committee had recently sent to Permanent Missions in Geneva, he wished to highlight in that connection that, in the current crisis situation, economic, social and cultural rights should not under any circumstances be compromised by austerity measures.

14. **Mr. Tirado Mejía** (Country Rapporteur) asked the delegation to clarify the State party's position on ratification of the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families and also its position on the right to strike. From reading the report, he had the impression that strikes were at best tolerated, even though the legal prohibition had been repealed more than 60 years previously. That situation was not in line with the Covenant and in conflict with the relevant International Labour Organization (ILO) conventions. The delegation's views on criticisms made by ILO about the lack of objective criteria for assessing the representativeness of workers' organizations would also be appreciated.

15. **Mr. Vandamme** (Belgium) said that Belgium received a large number of economic migrants from outside Europe who came from very poor backgrounds and had little or no work experience and few qualifications. The higher rate of unemployment among that group relative to the EU average could be an indication of more selective immigration policies in other European countries. It was also possible that other EU countries had established more systematic integration schemes. Most regions of Belgium had comprehensive social integration programmes to assist vulnerable migrant groups, but the benefits of such schemes were not always immediate.

16. The right to strike was a controversial issue in Belgium, in part because there was no specific law on the organization of strikes. The principal sources of reference and guidance were case law and the European Social Charter. Strikes were permitted provided they were peaceful and subject to strict compliance with procedures. For example, a strike notice must be deposited with the relevant joint committee so that mediation processes could be pursued through a court of arbitration prior to action being initiated. There had been cases in which business owners had unilaterally petitioned for a court injunction to end strike action and the judges had intervened in their favour. Such actions were very badly regarded by trade unions and workers' organizations and their admissibility had been challenged through ILO and the European Committee of Social Rights.

17. **Ms. Gallant** (Belgium) said that domestic violence was not a distinct criminal offence under the Belgian Criminal Code because such violence took many specific forms, including assault, abduction and murder. Thus, to ensure legal precision, the legislature had

taken the view that persons who committed offences against a spouse or partner should be charged with the specific offence, with domestic violence being cited as an aggravating circumstance. On the other hand, marital and partner rape, forced marriage and female genital mutilation were all expressly criminalized under Belgian law.

18. Victims of domestic violence had had the right to shelter since 2013 and, under a new law enacted in 2012, the Crown Prosecutor was empowered to issue temporary restraining orders against any person deemed a threat before any physical violence actually occurred. A further new law enacted in 2013 had eased the confidentiality constraints that had previously prevented professionals who became aware of incidents of domestic violence in the course of their work from speaking out.

19. Since 2006, police officers and members of the prosecution service had been under a legal obligation to record all cases involving violence against spouses or partners as such, resulting in a marked improvement in the availability of statistical data. Figures for 2012 attested to a decline in the number of cases reported, to just below 50,000. With regard to the relatively high number of discontinued cases, it was important to note that discontinuation was not definitive and all cases could be reopened. Furthermore, in some domestic incidents reported no criminal offence was subsequently found to have occurred. In most cases, cases were discontinued for reasons of expediency (for example, because the complaint was withdrawn) or on technical grounds such as insufficient evidence.

20. **Ms. Proumen** (Belgium) said that medical entitlements for undocumented migrants were in principle restricted to emergency care only. However, the definition of “emergency” was broad. Preventive, curative and prenatal care could all be covered, subject to a doctor’s attestation that the treatment was urgent. The recently introduced “Mediprima” system under which all persons resident in Belgium were issued with medical cards giving them immediate access to hospital treatment without formality should facilitate access to medical services, including for those without insurance.

21. **Ms. Gallant** (Belgium) said that the new Human Trafficking Act of 29 April 2013, which had widened the definition of that crime to cover sexual exploitation and another Act adopted on 24 June 2013, which provided for higher fines depending on the number of victims, had given effect to the recommendations contained in the 2008 national plan of action. The current plan of action adopted in 2012, which was based on an evaluation of progress under the previous plan, focused on the prosecution of traffickers and their accomplices and better victim protection. The number of victims did not appear to have fallen. The number of convictions was also relatively stable. Fairly heavy prison sentences had been handed down in cases of human trafficking and slavery.

22. **Ms. Van Lul** (Belgium) said that, under the Aliens Act, victims of trafficking were not obliged to cooperate with the authorities at the outset. They did not have to regard themselves as victims in order to be protected and assisted. They had a period of reflection of 45 days during which time they could ask to be given victim status and could file a complaint. The purpose of the procedure was to protect victims of trafficking networks by prosecuting and convicting members of the latter. Victims who cooperated did not have to appear in court as witnesses. Pursuant to preambular paragraph (9) of EU Council Directive 2004/81/EC, Belgium was under no obligation to issue a residence permit in the absence of cooperation. It could, however, issue a permit to vulnerable persons on humanitarian grounds under a different procedure.

23. **Ms. Proumen** (Belgium) said that the ambitious, new, six-point anti-poverty plan tried to help people not only to escape from poverty but to avoid becoming poor. It offered improved social welfare benefits and ensured that the poor had advantageous energy tariffs and payment plans. It took a cross-cutting approach to reducing child poverty. Social welfare centres could provide financial assistance to enable poor children to participate in

cultural activities and obtain specialized therapies. Social welfare recipients were encouraged to follow vocational training and take part in cultural activities. Health for all was guaranteed. Authorities were made aware of poor people's inhibitions regarding contact with public services and a network of officials had been set up to detect problems, pass on information and liaise with the relevant departments. Every six months the Cabinet monitored progress in implementing the plan. By the second monitoring exercise, 96 per cent of measures had been completed or were under way. At the end of 2014, all action under the plan would be evaluated.

24. The new plan also covered measures to combat the various causes of homelessness. More winter shelters would be opened. Social welfare centres could be used as an address for the receipt of welfare benefits. A project to house homeless persons had been launched in five towns. Social welfare centres received additional subsidies if they found housing for the homeless. The latter were given an allowance to buy furniture. Social welfare centres helped them to pay their first instalment of rent and a rental guarantee.

25. **Mr. Van Gestel** (Belgium) said that, in the Flemish Region, the 1997 Housing Code guaranteed the right to decent housing for all by establishing the requirement that these had to be an adequate supply of social housing. Social housing was rented or sold to persons in low-income groups who spoke or who were prepared to learn Dutch and who fulfilled a number of other conditions. It was allocated to persons registered on a waiting list where priority was given to the most vulnerable. Security of tenure was ensured through a wide range of measures and did not depend on tenants' having a sufficient income. Since energy efficiency was an important facet of social housing policy, bonuses and tax deductions encouraged the renovation and upgrading of buildings. Compliance with the latest technical standards was checked by the administrative authorities. A rent ceiling applied to social housing. Inspectors could suspend or cancel rent that exceeded the limit. Persons on the waiting list were entitled to an allowance that partly compensated for the difference in rent which they had to pay on the private housing market. The Flemish Government had also taken measures to facilitate access to decent affordable housing for middle-income groups.

26. **Mr. Foubert** (Belgium) said that, in the Brussels-Capital Region, endeavours to overcome the social housing shortage encompassed not only building schemes and the granting of housing allowances, but also the supply of accommodation through social housing agencies which offered properties at a lower rent than that demanded on the private market and which received compensation for the difference from the Government. There were plans to house low- and middle-income groups in mixed complexes in an effort to reduce the overrepresentation of ethnic minorities in certain areas.

27. **Ms. Hautot** (Belgium) said that, in the period 2010–2011, the number of men and women taking parental leave had risen. Men accounted for 24 per cent of the total figure. The increasing number of parents opting for such leave could be ascribed to the introduction of more flexible arrangements, namely the possibility of working part-time after the initial four months. Unfortunately, the lump-sum allowance paid during parental leave was usually far lower than a salary. Hence only low wage earners, i.e. usually women, tended to take that leave. That situation tended to reinforce stereotypes in the minds of both employers and employees, with the result that employers were likely to look more favourably on applications for parental leave from women. That was the reason why, although the number of men taking parental leave had risen, the percentage remained more or less the same.

28. **Mr. de Crombrugghe** (Belgium) said that, while the sugarcane producer referred to in the question asked by Ms. Bras Gomes was not a Belgian company, it had received financing from a consortium which included the Belgian Development Bank, although the latter had not provided official development assistance. The Belgian Government was very concerned about human rights violations by companies, including the expulsion of

smallholders from their land. It had therefore contributed to the drafting of the Guiding Principles on Business and Human Rights and had been one of the sponsors of Human Rights Council resolution 17/4 of 16 June 2011. It was updating its 2006 Action Plan accordingly and was considering what commitments it would undertake under the EU's Strategic Framework and Action Plan on Human Rights and Democracy in light of the European Commission's Communication on Corporate Social Responsibility.

29. **Ms. Bynens** (Belgium) said that Belgium had always been in favour of simplifying administrative formalities for small-scale farmers. In the Flemish Region, three strategic plans had been drawn up to deal with the specific problems encountered by certain types of smallholdings. The Flemish Government also supported "Farmers at the crossroads", a non-profit-making organization which assisted agricultural holdings in difficulties.

30. **Ms. Gallant** (Belgium) said that the possession and distribution of pornographic material involving children was punishable under article 283 bis of the Criminal Code. Article 39 bis of the Code of Criminal Investigation permitted the blocking of websites carrying such material. Two new bills before parliament would criminalize child grooming. It was possible to prosecute offenders under legislative provisions prohibiting indecent assault. The courts had found that making indecent proposals to children in chat rooms also fell within the definition of indecent assault. Instances of child pornography on the Internet could be reported to the Federal Computer Crime Unit or to Child Focus. They would bring the matter to the attention of the police and of the judicial authorities, which could then order the blocking of the site by the provider. A working group, comprising members of the police, the judiciary and the investigation services, was examining the problem. New laws were, however, needed in order to combat child pornography more effectively.

31. **Ms. Proumen** (Belgium) said that schooling was compulsory for the children of legal and illegal immigrants. Illegal immigrants with children could be housed in centres for asylum seekers and were eligible to receive health and welfare assistance. Unaccompanied alien minors were made wards of court. The judicial authorities would then help them to complete all the requisite administrative formalities for remaining in Belgium. Social welfare centres could be appointed the guardians of orphans without any family.

32. **Ms. Van Lul** (Belgium) said that, in 2013, the Civil Code, the Criminal Code, the Judicial Code and several relevant Acts had been amended in order to combat marriages and common-law marriages of convenience through the introduction of stiffer penalties and fines for offenders. The Registrar of Births, Marriages and Deaths had up to three months to determine the validity of documents submitted by the persons concerned. In the case of an illegal immigrant, the Registrar was obliged to ask the Aliens Office to forward any documentation concerning that person's presence in the country. If the marriage had been contracted abroad, the Belgian consulate in that country would be contacted with a view to ascertaining its validity. A person who had entered into a marriage solely in order to obtain the right to live in Belgium could be deported under article 146 bis of the Criminal Code. A circular of 6 September 2013 set out indicia for determining whether a marriage was a fake and another circular of 17 September 2013 concerned cooperation between the authorities to combat marriages of convenience. An information brochure had been published with a view to protecting potential victims. It supplied all the contact details of the authorities which could help them. A short information film had been shot and in the near future victims would be able to consult a website.

33. **Ms. Gallant** (Belgium) said that marriages and common-law marriages of convenience could be annulled. A number of provisions of the Civil Code clearly laid down which blood relationships formed an impediment to marriage. Derogations were possible in the case of uncles and nieces-in-law and aunts and nephews-in-law. The adoption of a cousin was possible. There were also some impediments to simple adoptions.

34. **Mr. de Crombrughe** (Belgium), replying to a question about biofuels, said that initial enthusiasm for their use had waned once it had been realized that they would not necessarily reduce carbon dioxide emissions. Furthermore, they were not the only available source of renewable energy. He added that the low rate of biofuel development in Belgium was not necessarily a decisive element in the difficulties of small-scale producers in Belgium, who were also contending with other factors such as globalization and changing lifestyles.
35. **Ms. Bras Gomes**, commenting on the issue of parental leave, commended the State party for allowing flexibility in taking such leave. She thanked the delegation for providing information on the Addax project, noting that the Committee consistently raised the issue of extraterritorial obligations with States parties.
36. **Mr. Tirado Mejía** requested information about measures, including legislation, in place to combat sex tourism.
37. **Mr. de Crombrughe** (Belgium) said that there had been a number of awareness campaigns targeting Belgians travelling abroad, and that there had been rare cases of extraterritorial application of criminal law in that area. His delegation could provide additional information on the issue later.
38. **Ms. Gallant** (Belgium) said that paedophilia was a crime in Belgium. Belgium had recently ratified the Council of Europe Convention on the Protection of Children against Sexual Exploitation and Sexual Abuse. In addition to conducting awareness campaigns on sex tourism, the Government was considering how to investigate cases involving Belgian citizens.
39. **Ms. Bury** (Belgium) said that all immigrants who settled in the Flemish Region were entitled to attend a 60-hour civic integration programme that included language courses and an introduction to Belgian society and its values.
40. **Ms. Moncarey** (Belgium) said that in the French-speaking community, subsidies were provided to newcomers affected by female genital mutilation, and that a support programme for newcomers similar to that provided by the Flemish Region would soon be available. The problem of forced, arranged and early marriages was closely monitored by the authorities, and relevant awareness-raising activities had been organized.
41. **Ms. Persoons** (Belgium), outlining the educational framework for children with disabilities in Belgium, said that such children were entitled to attend special schools or integrated schools. Currently in the Flanders Region nearly all children with disabilities attended school regularly, but the overwhelming majority of parents of such children preferred to enrol them in special schools. The ratification by Belgium of the Convention on the Rights of Persons with Disabilities provided opportunities for tackling the issue from various angles.
42. **Ms. Moncarey** (Belgium) said that the French Community Commission (COCOF) subsidized various measures to support the education of children with disabilities and their integration into mainstream schools.
43. **Mr. de Crombrughe** (Belgium), replying to a question about article 15 of the Covenant, said that Belgian policy regarding the rights enumerated in the article was entirely consistent with its provisions.
44. **Ms. Shin** asked whether the civic integration programme for new arrivals in the Flemish- and French-speaking communities was compulsory. Regarding the enrolment of children with disabilities in special schools, she said that parents' preference for such schools might result from a lack of adequate support for children with disabilities in

mainstream schools. She hoped that the State party would continue its efforts to foster the integration of such children into mainstream education.

45. **Mr. Pillay** said that the issue of forced evictions had not been addressed.

46. **Mr. Foubert** (Belgium) said that housing inspections sometimes resulted in housing being declared unfit for human habitation. In that case the authorities provided support to the people affected by such a measure.

47. **Ms. Gallant** (Belgium) said that evictions could stem from various reasons, including non-payment of rent, and that in any case they were not carried out during the cold months.

48. **Mr. de Crombrughe** (Belgium) emphasized that an array of measures were in place to prevent people from ending up on the street. Homeless people were guided to public shelters and thus the vast majority of them had a roof over their head. The delegation would be happy to provide more information about the issue later.

49. **Ms. Bynens** (Belgium) said that, while some categories of immigrants were required to follow the civic integration programme, citizens of EU countries were not.

50. **Mr. de Crombrughe** (Belgium) said that his delegation appreciated the Committee's thorough understanding of the country's administrative complexities, which had facilitated the interactive dialogue.

51. **Mr. Vandamme** (Belgium) said that his delegation had taken note of the areas in which the Committee would like to see further improvements. He assured the Committee of his Government's commitment to implementing the provisions of the Covenant.

52. **Mr. Tirado Mejía**, commending the delegation for the quality of its replies to the Committee's questions, said that the exchanges had revealed progress in many areas and the need for additional work in others. In particular, the Committee welcomed the Belgian Government's decision to accede to the Optional Protocol to the Covenant. The Committee's concluding observations would be published at the end of its current session.

53. **The Chairperson** welcomed the delegation's constructive and pragmatic approach throughout the interactive dialogue.

*The discussion covered in the summary record ended at 5.20 p.m.*