



**Economic and Social
Council**

Distr.
GENERAL

E/C.12/BEL/NGO/3
23 October 2007

Original: ENGLISH

COMMITTEE ON ECONOMIC, SOCIAL
AND CULTURAL RIGHTS
Thirty-ninth session
Geneva, 5-23 November 2007

**IMPLEMENTATION OF THE INTERNATIONAL COVENANT
ON ECONOMIC, SOCIAL AND CULTURAL RIGHTS: BELGIUM**

The Secretary-General has received the following written statement, which is distributed in accordance with Economic and Social Council resolution 1988/4. The document was submitted in connection with the consideration of the third periodic report of Belgium (E/C.12/BEL/3) and the core document of Belgium (HRI/CORE/1/Add.1/Rev.1).

[24 July 2007]

**Joint Parallel Report of the Coalition of Belgian Civil Society
for Economic, Social and Cultural Rights**

Submitted by¹:

1. ACW, Christian Workers Movement
2. Attac Flanders
3. CADTM
4. CNCD-11.11.11
5. Entr'Aide et Fraternité
6. FIAN Belgium
7. KWIA
8. Ligue des Droits de l'Homme (Belgique francophone)
9. Médecins-sans-Frontières/Artsen zonder Grenzen Belgique
10. Proyecto Gato
11. Social Alert International
12. 11.11.11, Coalition of the Flemish North-South Movement

Supported by²:

13. ACV, Belgian Christian Trade Union
14. Broederlijk Delen
15. Liga voor Mensenrechten
16. Oxfam Solidarité/Solidariteit
17. Pax Christi Vlaanderen
18. Wereldsolidariteit/Solidarité Mondiale

¹ The following organisations are the authors of the present final Joint Parallel Report. The content of each chapter only commits the organisation that has authored the chapter.

² The following organisations support the Joint Parallel Report of the Coalition of Belgian Civil Society for Economic, Social and Cultural Rights. They agree that the Belgian Government should comply better with its reporting obligations under international human rights instruments and should pay more attention to the recommendations of the Committee. They are not responsible for the contents of the present report.

General Introduction

1. The Coalition of Belgian Civil Society for Economic, Social and Cultural Rights started its work for a joint parallel report in 2004. The Coalition is composed of both Flemish and Francophone organisations (e.g. human and workers rights organisations, development cooperation organisations, poverty reduction organisations) which have contributed to the report in their respective areas of expertise.

2. The Coalition proactively prepared a comprehensive Joint Parallel Report in early 2005, which consisted of three parts. In the first part, the report analysed the commitment of the Belgian State to the progressive realisation of economic, social and cultural (ESC) rights at the national level. In the second part, the report assessed whether the Belgian State complied with its international obligations under the International Covenant on Economic, Social and Cultural Rights (ICESCR), i.e. whether Belgium seeks to contribute to the realisation of economic, social and cultural rights in third countries through international assistance and co-operation. In the last part, the report urged Belgium to continue supporting the drafting of an Optional Protocol to the ICESCR. The present report, referred to as the final Joint Parallel Report, is in fact a summary and updated version of the comprehensive one. It follows the same structure. The content of each chapter only commits the organisation that has authored the chapter.

3. The comprehensive Joint Parallel Report was finalised in April 2005³. It was communicated to the Belgian government with a view to stimulating the authorities to draft the Belgian Third Periodic Report taking into account the major concerns of civil society. To this end, the Coalition also sought to engage in a constructive dialogue with the authorities on two occasions. On 18 May 2005, the report was presented to the government and federal parliament in a colloquium, organised by the Coalition under the auspices of the Commission for Globalisation of the Belgian federal parliament. On 22 March 2006, the Belgian federal public service for foreign affairs organised a meeting with all relevant ministries and our Coalition to discuss the comments of the Coalition on the first draft of the official Third Periodic Report.

4. Overall, the “dialogue” with the authorities has been rather formal. The Belgian authorities have not been willing to substantially discuss the official or parallel reports. Nor did the government respond to the recommendations formulated in the Joint Parallel Report. With regards to the contents of the Third Periodic Report, the Coalition regrets both the absence of a human rights approach and the descriptive nature of the report which simply lists legislation and policies without any reference to implementation and practice.

5. In November 2006, a delegation of our Coalition discussed the comprehensive Joint Parallel Report with the Pre-Sessional Working Group of the Committee. In preparation for the plenary session of the Committee scheduled for November 2007, the Coalition has prepared this final Joint Parallel Report in order to draw the Committee’s attention to some of the most critical issues. At the end of each chapter, suggestions are made for

³ The comprehensive Joint Parallel Report can be consulted at:
http://www.socialalert.org/k/index.php?option=com_content&task=section&id=17&Itemid=61.

recommendations which the Committee may include in its Concluding Observations. These recommendations are consolidated and reproduced at the end of the report.

Part I : Compliance of Belgium with its National Obligations

A. The Principle of Non-Discrimination: Rights of Migrant Workers⁴

Justification

6. Immigration has become a political issue across the globe. Migratory flows have increased enormously in the last 25 years, and in 2005, over 190 million people were international migrants⁵. In Belgium in 2002 net migration resulted in an influx of 40,000 people⁶. These figures do not, however, entirely reflect reality as an ever increasing number of undocumented migrant workers are not accounted for, as they do not leave once their residence permit expires.

Issues of concern

7. The situation of migrants in Belgium is one of vulnerability and marginalisation. As migration increases globally, tackling the causes of migration and addressing the needs of migrants will require an integrated and joint response by the international community. A first step in that direction is the 1990 UN Convention on the Protection of the Rights of All Migrant Workers and Members of their Families (hereafter UNCMW), which is a comprehensive international treaty emphasising the important link between migration and human rights.

8. In Belgium, there are essentially two legal grounds under which foreigners can enter and reside on the territory. First, there is the humanitarian ground, which allows refugees fearful of prosecution in their country of origin, to apply for asylum. Their status is governed by the Convention of Geneva of 28th July 1951. Secondly, there are socio-economic grounds: *employment*: this right is granted mainly to citizens of the EU and the European Economic Area and exceptionally to non-EU nationals; *family reunification*; *education* and *tourism*. These legal grounds only allow for very small numbers of people to enter and remain in the country. Far more people use other means. Some enter illegally, but often migrants and asylum seekers who once had a residence and/or work permit, decide to stay after their permit expires.

9. Independent of their legal (documented) or illegal (undocumented) status, migrants are entitled to the full respect, protection and fulfilment of their fundamental rights, including economic, social and cultural rights. This is a fundamental principle underlying the UNCMW. In reality, however, migrant workers and their families suffer many forms of discrimination⁷.

⁴ Social Alert International aisbl, Chaussée de Haecht 579, 1030 Brussels – Contact: Bart Verstraeten, phone: + 32 2 246 36 94, fax: + 32 2 246 30 10, e-mail: bart.verstraeten@socialalert.org.

⁵ UN Population Division, International Migration and Development, Fact Sheet: http://www.un.org/esa/population/migration/hld/Text/Migration_factsheet.pdf.

⁶ N. Perrin, G&DAP – UCL, Département des Sciences de la Population et du Développement, Université Catholique de Louvain: statistics consulted on the following website: <http://www.dofi.fgov.be/nl/1024/frame.htm>.

⁷ This section deals with the discrimination of migrant workers in respect of employment and social benefits. Another section addresses the discrimination of migrant workers in respect of health care.

i) Employment

10. Legal migrant workers face problems finding and retaining a job even if they have the same type of qualifications as Belgians. Studies also show that second and third generation immigrants in Belgium are more affected by unemployment than non-immigrant Belgians⁸.

11. Undocumented migrants have no access to the formal labour market and end up working in the informal economy. Many people in Belgium –nationals and foreigners alike– work in the informal economy, but it is the only source of income for undocumented migrants. They are mostly hired for the 3D-jobs –dirty, dangerous and demanding jobs. In the labour-intensive sectors where informal work flourishes, migrant workers are prone to all kinds of economic exploitation: hard working conditions, very low wages, no social protection, etc⁹.

Domestic workers: international domestic workers in Belgium are a highly heterogeneous group of migrants earning their living by working for private families and in diplomatic posts. The term “domestic work” legally defines a large variety of tasks that generally include also “care giving works” like looking after children and taking care of elder people. The isolation of their work in the seclusion of private houses is almost an invitation to abuse. The most frequent abuses reported from international domestic workers in Belgium are: long daily working hours, very low wages, lack of days-off or holidays, confiscation of the worker’s passport, physical and sometimes sexual abuse.

ii) Social benefits

12. In Belgium employers are obliged to have insurance covering occupational accidents, which must also cover undocumented workers. The insurance covers medical costs in case of a work-related accident and benefit pay while they are recovering¹⁰. In reality, however, migrant workers are not aware of these rights and do not exercise them as they are afraid to report their employer for fear of expulsion or because they cannot prove a legal employment relationship.

13. Migrant workers, including undocumented migrants, already enjoy certain socio-economic rights in Belgium. Ratification of the UNCMW by Belgium would signal to other “receiving” countries that Belgium is dedicated to respecting, protecting and fulfilling the human rights of all people, including migrants. Ratification would also contribute to the development of a comprehensive and rights-based policy towards migrant workers. The Flemish Government decided to officially support Belgium’s ratification of the UNCMW in

⁸ L. Okkerse and A. Termote, *Hoe vreemd is vreemd op de arbeidsmarkt. Over de allochtone arbeidskrachten in België, Statistische Studie N°111*, Algemene Directie voor Statistiek en Economische Informatie, Brussels, 2004, p. 18-21.

⁹ J. Geets, F. Pauwels and J. Wets, *Nieuwe Arbeidsmigranten en de Arbeidsmarkt*, HIVA, KU Leuven, 2006, p. 107.

¹⁰ “Undocumented Workers : A Guide to Rights”, Or.c.a/ACV/ABVV, Brussel, 2006, p. 60-61.

2004 and reiterated this support in 2005¹¹. An authoritative study emphasised the absence of major legal obstacles to Belgian ratification¹².

Recommendation

14. The Committee might recommend to Belgium:
- to improve the practical and effective application of existing socio-economic rights of migrant workers, to further develop a comprehensive and rights-based policy for migrant workers, including undocumented migrants and to ratify the 1990 UNCMW to this end.

B. The Right to Housing¹³

Justification

15. The right to decent housing is a right that is clearly to be interpreted from the perspective of the most vulnerable groups in our society, such as the poor and members of ethnic minorities. In Belgium housing policy focuses predominantly on property acquisition, which has led to a shortage of social and rental housing as well as a low level of protection for tenants. The issue is not so much one of lack of resources, but the questionable allocation of resources and the neglect of the problems facing the rental housing market.

16. It is important to note that in Belgium housing policy is mainly a regional matter. There are three regions in Belgium: the Walloon Region (French-speaking), the Flemish Region (Dutch-speaking) and the Brussels Metropolitan Region (bilingual). The federal state, however, has also an impact on housing policy. We will address both levels of authority, federal as well as regional as we argue that they have failed to guarantee the right to housing in Belgium.

Issues of concern

17. With regard to housing, the federal legislative authority shapes the basic principles of rental housing, e.g. legislation on leases of primary residence (civil code), eviction procedures (judicial code), and taxes with regard to housing (tax legislation). It is through fiscal legislation that the acquisition of property is promoted.

i) Property acquisition policy

18. In Belgium, the total budget for housing is approximately 2 billion € and the majority of which is part of the federal budget. The largest part of the budget goes to providing incentives for the acquisition of property, i.e. 1,575 million €. The incentives for

¹¹ Flemish Government, Meeting of 30th April 2004, VR/PV/2004/19, Issue 96; Response of the Flemish Government, Administration Employment on the European Green Paper on the Management of Economic Migration, 15th April 2005, p. 5 (available in Dutch on the website of DG Justice and Home Affairs: http://ec.europa.eu/justice_home/fsj/intro/fsj_intro_en.htm).

¹² D. Van Heule, M.-C. Foblets, S. Loones and S. Bouckaert, "The Significance of the UN Migrant Workers' Convention of 18 December 1990 in The Event of Ratification by Belgium", in *European Journal of Migration and Law*, Volume 6, 2005, The Netherlands, pp. 285-321.

¹³ Joint contribution by: ACW, Haachtsesteenweg 579, 1030 Brussels – Contact: Michel Debruyne, phone: +32 2 246 37 29, fax: +32 2 246 37 00, e-mail: michel.debruyne@acw.be; Ligue des Droits de l'Homme (Belgique francophone), Chaussée d'Alsemberg 303, 1190 Bruxelles – Contact: François Lourtie, phone: +32 2 209 62 84, fax : +32 2 209 63 80, e-mail : flourtie@liguedh.be.

the acquisition of property are mainly fiscal. Financial benefits go to those who can afford to acquire property, whereas tenants hardly benefit from financial benefits and certainly not from fiscal incentives. Studies show that half of all tenants will never be able to purchase a property and therefore will always depend on the social or rental housing market. But for social housing (which is a regional competence) there is only a small budget.

The one-sided emphasis on the acquisition of property renders the realisation of the right to housing impossible and it enhances the inequitable development of the housing market.

ii) Rental and social housing policy

19. In December 2006, the federal government adopted some measures to protect tenants, e.g. the registration of the rental agreement is now obligatory, the amount of the rent is public, and the deposit/caution is no longer a hindrance even for the most vulnerable groups. Also, pilot projects linking the amount of the rent to the quality of the dwelling have been launched, and there are increased measures related to quality control. These initial small steps are insufficient to tackle the problems of rental housing. Further, some measures (like the cost/quality pilot projects) are temporary and dependent on the willingness of the new federal government elected in June 2007.

20. Rental housing problems are threefold: the quantity of rental houses is decreasing, rents are too high, and the rent charged has no relationship to the quality of the dwelling. The three problems are related and thus greater numbers of people struggle to find adequate housing at a price they can afford.

21. The quantity of rental dwellings is decreasing because more rental property is being sold and then owner occupied. This problem is more common in cities which generally have a larger number of rental properties. The Flemish parliament has held many debates on the affordability of housing¹⁴.

22. Because of the declining number of rental properties rents are exploding¹⁵. Between 1992 and 1997 the cost of housing in proportion to income increased by 1.2% to 19.3% for owners and for tenants by 5.4% to 24.5%. In cities like Brussels the cost of housing is between 40-65% of their income for more than 50% of residents¹⁶.

23. Belgium's housing stock is both old and in bad condition. Flanders has 200,000 bad dwellings. Most of them (about 60%) are rental properties. In Belgium the rent charged for a dwelling is at the owner's discretion. It is neither objectively linked to the condition nor to the location of the property. As noted above the federal government recently implemented some pilot projects linking rent and housing quality.

¹⁴ www.vlaamsparlament.be, public hearings in 2006.

¹⁵ National Action Plan for Social Integration 2001-2003 stressed that the prices of the private rental market for rooms and apartments had exceeded the index of the past 15 years by 46 %.

¹⁶ De Decker, P., Goossens, L. and Pannencoucke, I. (eds.), *Wonen aan de onderkant*, Antwerpen, Garant, 2005, and the contribution of R. Van Dam and V. Geurts, *Wonen in Vlaanderen in perspectief*, p. 37-59; "Les Echos du logement", Brussel, August 2006.

24. Despite these figures, Belgium has a low percentage of social housing. In its previous concluding observations (N°14) the Committee expressed concern about the shortage of social housing in Flanders, but the situation is problematic for the whole country. In Flanders since 2002, the amount of social housing increased by only 4,000 housing units (end of 2005). In Wallonia since 1994, the amount of social housing has increased by only 4,700 housing units (end of 2005). In Brussels large households must wait more than 8 years for social housing.

Recommendations

25. The Committee might recommend to Belgium:

- To provide housing policy subsidies, as a matter of priority, to the most vulnerable groups. At least 30% of the budget should be reserved for the necessary expansion of social housing. At least 30% of the available budget should be reserved for improving the quality of housing offered on the private market. A maximum of 30% could be used for stimulating the acquisition of property, in which the lower income groups be prioritized.
- To establish a mechanism that guarantees an objective linkage between the level of rent charged and the condition of the dwelling.

C. The Right to Health: Access to Health Care for Asylum Seekers and Undocumented/Illegal Residents¹⁷

Justification

26. Health is a fundamental human right indispensable for the exercise of other human rights. Every human being is entitled to the enjoyment of the highest attainable standard of health conducive to living a life in dignity.

Issue of Concern

27. In General Comment 14 the Committee on Economic, Social and Cultural Rights affirmed that “*States are under the obligation to respect the right to health by, inter alia, refraining from denying or limiting equal access for all persons, including ... asylum seekers and illegal immigrants, to preventive, curative and palliative health services; abstaining from enforcing discriminatory practices as a State policy*”.

28. Belgian law on access to health care currently distinguishes between undocumented residents and legal residents. Legal residents are entitled to a full range of preventive, curative and palliative health services. Undocumented residents and asylum seekers are limited to access to urgent medical care. This two tiered system clearly discriminates on the basis of immigration/residency status.

29. With regards to Sweden, Paul Hunt, the UN Special Rapporteur on the Right to Health has stated, “A fundamental human right, the right to health is to be enjoyed by all without discrimination. It is especially important for vulnerable individuals and groups. Asylum seekers and undocumented people are among the most vulnerable in Sweden. They

¹⁷ Médecins sans Frontières Belgique – Artsen Zonder Grenzen België, Dupréstraat 94, 1090 Bruxelles – Contact : Gorik Ooms and Rachel Hammonds, phone : +32 2 474 74 01, e-mail : gorik.ooms@azg.be, rachelhammonds@yahoo.com.

are precisely the sort of vulnerable group that international human rights law is designed to protect.”¹⁸ We argue that as in Sweden, asylum seekers and undocumented/illegal residents are among the most vulnerable persons in Belgium, and should be afforded the same access to medical care as legal residents of Belgium.

Recommendation

30. The Committee might recommend to Belgium:
- To bring itself into conformity with its international human rights obligations by extending to all asylum seekers and undocumented/illegal individuals the same medical care, on the same basis as legal residents of Belgium.

D. The Right to Education of Indigenous Peoples in Belgium¹⁹

Justification

31. There are about 1500 Manush people living in Belgium.²⁰ They are the descendants of the people called “Egyptians” of which one of the first groups arrived in 1421 in Bruges. They now live mainly in trailers on camping sites, although some do live in brick houses. Their mother tongue is Sinti Romanes, their second language the one of the region where live, e.g. Flemish in Flanders. Some Manush are Roman Catholic, others adhere to their own Pentecostal Church.

32. There are about 750 Rom people in Belgium. They arrived in Belgium in the second half of the 19th century after the abolition of their slavery status in Romania in 1855. Their native language is Vlax Romanes, their second language is French. Rom live semi-nomadically: they travel in trailers from May till October and stay at private or public camping sites during winter. They all adhere to their own Pentecostal Church. Migration of Rom to Western Europe never came to a complete stop. However during the Cold War it was very hard to move to the West because of the Iron Curtain. After the collapse of the Eastern Bloc a new wave of migration of Rom(a) started. Ethnically the Rom are thus very closely related to the Roma. Although there are more than twenty Vlax Romanes dialects, they are all inherently intelligible. There is an increasing number of marriages between Belgian Rom man and Slovakian Roma women.

33. Most Manush and Rom living and travelling in Belgium have Belgian nationality, although during spring and summer, larger groups of Rom and Manush, from other EU Member States are trekking through Belgium. These groups may vary from 30 to 150 trailers and often have family or social ties with the “Belgian” Manush and Rom.

¹⁸ Visit of UN Special Rapporteur on the right to the Highest Attainable Standard of Health, to Sweden from 10-18th January 2006, Press Conference, 19 January, 2006.
[Http://www2.essex.ac.uk/human_rights_centre/rth/docs/Sweden%20press%20conference%20remarks%2021Janaury%202006.doc](http://www2.essex.ac.uk/human_rights_centre/rth/docs/Sweden%20press%20conference%20remarks%2021Janaury%202006.doc) –

¹⁹ KWIA, Kortrijksepoortstraat 192, 9000 Ghent – Contact: Johan Bosman, phone: +32 9 330 84 30, fax: + 32 9 330 84 30, e-mail: johan_kwia@yahoo.com.

²⁰ The majority of data for this report can be found at the Vlaams Centrum Woonwagenwerk website, <http://users.telenet.be/ws35421/beleidsp.htm> and at <http://users.belgacom.net/bn379716/educatio.htm>.

34. Traditional Rom and Manush education contains few punitive measures. Punishment and reward depend more on the situation than being linked to a fixed system of good and bad. Children are educated by the parents, by their extended family and the other inhabitants of the trailer sites. This means that from an early age Rom and Manush children follow adult patterns of behaviour. The boys start accompanying their father, uncle, etc. at a very early age, the girls are given housekeeping tasks.. Core elements of Rom and Manush culture are autonomy and flexibility for men, family life for women. Belgian Manush and Rom do not write in their native language and are even opposed to education in their native language because they consider their language as a secret communication tool which provides a sense of security against the threats of dominant society. This however may change with the immigration of Roma who ask for education in Vlax Romanes.

35. Article 13 of the ICESCR reads: "The States Parties to the present Covenant recognize the right of everyone to education. They agree that education shall be directed to the full development of the human personality and the sense of its dignity, and shall strengthen the respect or human rights and fundamental freedoms." Belgium is not respecting this right with regard to the Manush and Rom people living in Belgium.

Issues of concern

36. The Belgian authorities have no policy to tackle the low primary and secondary educational enrolment and attendance rates of Manush and Rom children living in Belgium thus resulting in the denial of their right to education.

37. There are very few statistical data with regard to education of Manush and Rom in Belgium. However the few data that exist give a very shocking image of the situation. A survey of 1994 shows that 81% of the Manush children were registered in a school but only 67.8% of the children in the age for attending secondary school actually attended regularly. Only 18.8% of the Rom children attended school and not a single Rom child attended secondary school.

38. The most recent statistical data are from 2001 and are based on a limited survey of 175 families (192 children from 3 to 18 years) of Belgian Manush and Rom. 45.36% did not attend school, 9.62% attended kindergarten, 25.77% attended primary school, 3.78% attended secondary school (of which 3.09% attended a technical school and only 0.69% a general secondary school), 6.87% followed a professional training, 6.18% attended a special school (i.e. for mentally disabled) and for 2.41% it was unknown. According to the Flemish Centre for Social Work in Trailers (Vlaams Centrum Woonwagenwerk), an NGO specialised in working with Manush, Rom and Travellers, 97% of the adult Rom should be considered as virtually illiterate.

39. There are no specific provisions regarding education for Manush and Rom children in Belgium, including education in Sinti Romanes and Vlax Romanes, nor is there an organized structural dialogue between the Belgian federal or regional authorities and the Manush and Rom people regarding establishing such education. There is no policy to tackle the non-enrolment and absenteeism of Rom and Manush children by providing e.g. mobile (classroom free) teachers who reach out to the families. There is no distance learning system to provide education to children of travelling families nor is there a programme to provide for

teachers that travel together with the families as exists in France where there are a number of mobile truck schools, which are operated by NGOs.

40. Belgium is violating Articles 2 (1) and 13 of the ICESCR with regard to the Rom people living in Belgium, it does not implement ILO Convention 107 nor does it ratify and/or implement ILO Convention 169 with regard to the Rom and Manush peoples living in Belgium, in particular with regard to the right to education. It should also implement Recommendation 66 made to the EU Member States by the Commission of Inquiry on Racism and Xenophobia of the European Parliament in its Report of 1991 which reads: « Respecter le mode de vie traditionnel des gitans et autres communautés nomades, en favorisant la mise en place des infrastructures nécessaires à ce mode de vie, tant aux frontières extérieures qu'à l'intérieur de la Communauté. »

Recommendations

41. The Committee might recommend to Belgium:

- The establishment of a structured dialogue between the Belgian federal and/or regional authorities and the Manush and Rom peoples with a view towards setting up culturally adapted/appropriate education and other necessary provisions so as to provide sufficient means for the education of Manush and Rom in Belgium.
- To ratify, implement and promote ILO Convention 169.

Part II : Compliance of Belgium with its International Obligations

Introduction

International Obligations

42. Co-operation among states for the realisation of economic, social and cultural (ESC) rights is not only a moral obligation or a political commitment (see e.g. the 8th Millennium Development Goal), but also an obligation under international law. In addition to the domestic obligations of the signatory state, article 2 of the ICESCR also includes obligations with respect to third states, the so-called international obligations. International obligations comprise all obligations incumbent on the state party to the ICESCR – individually and also when acting in the context of intergovernmental organisations – with respect to third states. In General Comment No. 3 on the nature of States parties' obligations, the Committee stressed that "international cooperation for development and thus for the realization of economic, social and cultural rights is an obligation of all States. It is particularly incumbent upon those States which are in a position to assist others in this regard." (§14). International obligations do not replace, but complement domestic states' obligations.

Respect, Protect and Fulfil

43. The tripartite typology of state obligations to respect, protect and fulfil can help to clarify the international obligations of states. *The obligation to respect* implies that states refrain from any action or policy that might impede the realisation of ESC rights in third countries, e.g. in the South. For example, states should not involve themselves in projects resulting in large-scale evictions, and should abstain from supporting policies and decisions of intergovernmental organisations that may obstruct or hinder the realisation of ESC rights.

44. *The duty to protect* requires that states ensure that all entities subject to their control respect the enjoyment of rights in third countries. Therefore, states have the obligation to regulate the action of domestically based corporations.

45. Finally, from *the obligation to fulfil* ensues a duty to provide international aid to countries in the South when they are unable to independently realise the absolute minimum norms of ESC rights, or in the context of disaster relief and humanitarian assistance.

Belgium's reporting obligations

46. This final Joint Parallel Report focuses on some of Belgium's international obligations under the ICESCR. All NGOs that participated in drafting this report are active in the field of development co-operation or humanitarian relief, and deem it extremely important to highlight Belgium's obligations under international law in this regard.

As pointed out in the Committee's Guidelines on the Form and Contents of Reports, countries like Belgium, which engage in development cooperation, are also required to report on their development cooperation activities (para. 7).

47. Belgium is moreover expected to include information on how it has taken into consideration the suggestions and recommendations contained in the Committee's concluding observations on Belgium's previous periodic report. In these 2000 concluding observations, the Committee recommended that Belgium "review its budget allocation for international cooperation with a view to increasing its contribution, in accordance with the United Nations recommendation", and "encouraged the Government of Belgium, as a member of international organisations, in particular the International Monetary Fund and the World Bank, to do all it can to ensure that the policies and decisions of those organizations are in conformity with the obligations of States parties to the Covenant, in particular the obligations contained in article 2.1 concerning international assistance and cooperation."

A. International Co-operation and Assistance²¹

Justification

48. The degree of compliance by a donor country like Belgium with its international obligations deriving from article 2 of the ICESCR, in which States commit themselves to international assistance and co-operation, can inter alia be measured by its efforts and achievements in the field of development co-operation, both in financial and qualitative terms. The ESCR-Committee recommended Belgium in its previous Concluding Observations (UN Doc. E/C.12/1/Add.54, para. 30) to raise the budget for development co-operation in order to meet the 0,7 % target as set by the General Assembly of the UN and reaffirmed in §42 of the Monterrey Consensus. Although Belgium legally committed itself to reaching this target, the coalition would like to stress at the same time that the increase in the budget must be real, and not brought about artificially through broadening ODA-eligibility criteria at the OECD level.

Issues of concern

²¹ 11.11.11, Coalition of the Flemish North-South Movement, Vlasfabriekstraat 11, 1060 Brussels – Contact: Han Verleyen, phone: + 32 2 536 11 50, fax.: + 32 2 536 19 06, e-mail: han.verleyen@11.be.

i) The budget

49. Belgium legally committed itself to allocate 0,7% of its Gross National Income²² (GNI) to Official Development Assistance (ODA) by 2010. In the period 2000-2005, Belgian Development Co-operation rose from 0,36% of the GNI in 2000 to 0,5% in 2006.

50. Still, the drafters of this report are not satisfied with the budget dedicated to development co-operation. The steady rise is to be qualified as 'largely artificial'. The increase from 0,37 % of GNI in 2001 to 0,43% in 2002 was by and large the result of debt relief operations mostly benefiting the National Office de Ducreire, the Belgian Export Credit agency. The same phenomenon could be noted in 2003: the rise from 0,43% of GNI in 2002 to 0,61% of GNI in 2003 was entirely the result of a debt relief operation towards Congo. This debt relief operation inflated the Belgian Co-operation expenses for 2003 with more than 600 million Euro. In reality, however, the Congolese government did not receive or gain one additional Euro. The debt has moreover 'devaluated' and is only worth a fraction of its original value. Continuing aid spikes can be noted in 2005 and 2006, with resp. 0,53% and 0,50% of GNI counted as ODA. However, if debt relief to Nigeria and Iraq is deducted, no more than 0,38% of GNI was spent.

	ODA as % of GNI	Without debt relief	Commitments of Government²³
2003	0,61%	0,38%	0,40
2004	0,41%	0,38 %	0,45
2005	0,53%	0,41%	0,45
2006	0,50%	0,38%	0,50

51. The drafters of this report are in favour of debt relief operations, but notice that the resulting increase in the budget is to a large extent virtual. The accounted value in ODA figures does not reflect the actual budgetary space created by the debt relief operation. Moreover, expectations are that the share of debt relief in future Belgian ODA will decrease dramatically. There are no more major debt operations 'available' the coming years²⁴, apart from a 270 million Euro debt operation to the DR Congo expected in 2008. If Belgium wants to live up to its obligation to assist other countries in meeting their international ESC rights obligations, it must do so through increasing its ODA with extra funds, which can additionally be complemented with debt relief operations. Calculations by 11.11.11 reveal that by 2010 the government has to allocate 1 billion Euro extra on top of ODA-accountable government spending to reach its commitments.

ii) ODA-eligibility

52. The Coalition is also worried about the discussion within OECD/DAC on the ODA-eligibility criteria of expenses. It has already been decided that efforts by donor countries to

²² GNI is Gross Domestic Product less primary incomes payable to non-resident units plus primary incomes receivable from non-resident units

²³ Due to the adoption of a law in 2002, government has to explain annually the efforts it makes to increase the budget. With a growth path it explains how it will reach the 0.7 target.

²⁴ Debt relief is decided upon internationally, and therefore following international trends rather than individual donor decisions

reach their Kyoto-target through Clean Development Mechanism-projects are to some extent ODA- eligible. Belgium supported this option within the OECD/DAC.

53. Other themes to be further discussed within OECD/DAC are the eligibility of expenses related to the fight against terrorism, defence, migration etc. Belgium included already 70 million Euro related to refugees and migrants in its 2003 budget for development co-operation. Money for the reconstruction of Iraq was also partly drawn from the development co-operation budget. Again, this resulted in an artificial rise in development co-operation spending.

54. In 2004 Belgium contributed for the first time 6 million Euro to the UN peacekeeping force in Congo (MONUC). In 2005 it budgeted 7 million Euro to the MONUC, in 2006 this rose to a 10 million Euro budget for 2007. These expenses are not ODA-accountable according to the OECD guidelines and can therefore not count for the 0.7% target. For reasons of transparency, the coalition asks that only ODA-accountable costs would be included in the development co-operation budget.

Recommendations

55. The Committee might recommend to Belgium:

- To increase the budget for development co-operation in order to reach 0,7% of GNI in 2010 at the latest, and to ensure that the growth in spending for development co-operation be real and genuine, and not the mere result of wider eligibility criteria of existing expenses in other governmental fields.
- To ensure higher predictability of its development co-operation efforts, inter alia by making multi-annual budgetary commitments, both in the strategy papers as drawn up by the Directorate-General for Development Co-operation as well as in the annual budget.

B. Human rights obligations in international trade, investment and financing mechanisms²⁵

Justification

56. Although several international targets, such as the World Food Summit process and the Millennium Development Goals aim to halve the proportion of people suffering from hunger, malnutrition and poverty, absolute hunger and poverty figures are not or only slowly decreasing²⁶, and most countries will not achieve the MDGs²⁷. The Hunger Task Force of the

²⁵ Joint contribution by: FIAN Belgium, Van Elewycckstraat 35,1050 Brussels – Contact: Jonas Vanreusel, phone: +32 2 640 84 17, e-mail: jonas@fian.be; Proyecto Gato, De Pretstraat 82, 2060 Antwerp – Contact: Jan Cappelle, phone: +32 3 470 20 56, e-mail: jan_cappelle@proyectogato.be; CNCN-11.11.11 (Belgian coalition of French and German speaking NGOs and social movements), Quai du Commerce 9, 1000 Brussels – Contact: Arnaud Zacharie, phone: +32 2 250 12 69, e-mail: arnaud.zacharie@cncd.be; CADTM, Av de l'Observatoire 345, 4000 Liège – Contact: info@cadtm.org, phone: +32 4 226 62 85.

²⁶ 854 million people still suffer from hunger and malnutrition according to FAO, "The state of Food Insecurity in the World 2006". The number of extreme poor has slightly fallen to 985 million in 2004, according to World Bank, "Global Monitoring Report 2007".

²⁷ Global Monitoring Report 2005, *Millennium Development Goals: from consensus to momentum*, The World Bank publications, Washington, 2005.

U.N. Millennium Project estimated that 50% of the hungry are small farmers with marginal access to resources (land, seeds, water, credit...) to feed their families, or an inadequate income due to market liberalisation or lack of government support. An additional 22% are landless, depending mostly on labour wages for survival, and 8% depend directly on natural resources for their livelihood (fishers, nomads, indigenous...). Unequal access to resources and local agricultural markets are now seen as the major factors causing hunger and poverty. For urban poor, access to water and housing are especially problematic. Moreover, an inadequate living standard often affects the enjoyment of other basic rights such as a good health and education.

57. In the following, the report discusses the role of Belgium in three different policy areas where decisions are taken which have a potentially negative impact on the resources on which many hungry and poor people rely to make a decent living: trade agreements, government-backed export credits for Belgian multinational enterprises and the international financial institutions (IFIs). The argument is that Belgium does not comply with Article 2.1 of the ICESR²⁸ if it fails to properly assess and monitor the human rights impact abroad of decisions taken in these policy areas.

Issues of concern

- i) Trade mechanisms: export of low-priced and unsafe chicken to African countries

58. The chicken exports to West and Central Africa are increasing by almost 20% annually. Cameroon is the most dramatic case and experienced a *twentifold* increase in the import of frozen chicken parts between 1996 and 2003. 20% of the Cameroon population is malnourished and 65% is reliant on agriculture, assuring 90% of the food consumption of the country (before it started opening up its markets in 1995). The production of one ton of chicken meat represents three livelihoods in agriculture and two urban jobs for plucking and selling. Because of the imports, of which three-quarters come from the EU (mainly France, Belgium, the Netherlands and Spain), the local chicken meat production in Cameroon went down from 21000 tonnes in 2000, covering 60% of the need, to 13000 tonnes in 2003. As a result, 110 000 of the jobs in the sector were lost²⁹.

59. The exports mainly consist of frozen cut pieces of little value in the EU, bought by importers at 0.80 € per kg and sold at 1.50 € per kg, while local producers can only survive with a price of 1.80 € per kg. Control of the officially established (increasing) import quotas (which were three times below the actual imported volumes in 2004) is lax. The control on food safety and continuity of the cold chain is even more problematic: the Centre Pasteur in Yaoundé recently classified 83% of frozen chicken parts on the Cameroon markets as “unsuitable for human consumption”, surpassing the level of microbes permitted in the EU by

²⁸ “Each State party to the present Covenant undertakes to take steps individually and through international assistance and cooperation especially economic and technical, to the maximum of its available resources, with a view to achieving progressively the full realization of the rights recognized in the present Covenant by all appropriate means, including particularly the adoption of legislative measures”.

²⁹ According to a study undertaken by the Cameroon NGOs SAILD and ACDIC: “L’importation massive de poulets congelés au Cameroun: état des lieux, enjeux et alternatives”, April 2004.

up to 180 times. The incidence of the respective disease patterns in the hospitals of Cameroon correlates statistically with the increasing imports of frozen chicken.

60. General Comment no. 12 on the Right to Adequate Food of the UN Committee on Economic, Social and Cultural Rights authoritatively stipulates in par. 39 that “products included in international food trade or aid programmes must be safe and culturally acceptable to the recipient population”. Moreover, EU law prohibits the export of unsafe food³⁰.

61. Belgium, an important food and poultry exporting member state in the EU, has the external human rights obligation to take measures (1) individually within its control and (2) in cooperation with the importing country to respect and protect the right to health, food and work of persons, in so far as the distribution and consumption of the exported food is concerned.

ii) State support mechanisms for companies: official export credits

62. The applicable normative framework on Export Credit Agencies (ECA) is insufficiently comprehensive. These ECAs are public agencies that provide government-backed export credits (insurances, guarantees, rate support) to Belgian enterprises that seek to do business overseas in developing countries and emerging markets.

63. Belgium fails to identify and recognize the extraterritorial application of core human rights standards. Instead, Belgium promotes and applies voluntary, non-binding sets of recommendations and guidelines³¹ in relation to subsidies for companies doing business abroad. Moreover Belgian authorities have clearly been unwilling to take responsibility³² and to screen applications for subsidies in order to ensure that the activities or practises of Belgian companies abroad (their clients) do not violate the ICESCR and other human rights law³³.

64. Belgium has designated a National Contact Point (NCP) to give stakeholders opportunities to discuss specific instances of business conduct of Belgian companies in violation of human rights. This practise falls within the scope of the application of the OECD Guidelines on Multinational Enterprises, a supranational declaration that provides voluntary principles and standards for multinational enterprises operating in or from adhering countries.

³⁰ See Regulation (EC) Nr. 178/2002 of the European Parliament and Council of January 28, 2002, on the general principles and requirements of food law and in matters of food safety: http://europa.eu.int/eur-lex/pri/en/oj/dat/2002/l_031/l_03120020201en00010024.pdf. It stipulates: “In determining whether any food is unsafe; regard shall be had (a) to the normal conditions of use of the food by the consumer and at any stage of production, processing and distribution”, and continues: “The community has chosen a high level of health protection as appropriate in the development of food law, which it applies in a non-discriminatory way whether food or feed is traded on the internal market or internationally.”

³¹ I.e. OECD Recommendations on Common Approaches on Environment and Officially Supported Export Credits; OECD Guidelines for Multinational Enterprises; World Bank Safeguard Policies.

³² Projects that are backed by Ducroire and are known for human rights violations include Dhabhol in India (1998) and Camisea in Peru (2002 and 2005).

³³ There are almost no direct official statements on the human rights obligations from Ducroire. However, the answer from minister of Economy Verwilghen on 08/03/2006 to a parliamentary question shows clearly that screening beyond global environmental and sustainability standards is not an issue; for more information: see <http://www.dekamer.be/doc/CCRI/pdf/51/ic882.pdf>, p.67 or contact jan_cappelle@provectogato.be.

However, many problems have to be addressed. The NCP fails to identify and recognize the extraterritorial application of core human rights law. In many instances, the NCP has prioritised contractual obligations over compliance with international human rights law, including the ICESCR; in other instances the NCP fails to address compliance with the ICESCR. NCP has repeatedly argued that it does not function as a “complaints mechanism”. The NCP lacks visibility, accessibility, transparent procedures and accountability.

iii) Investment and development mechanisms of International Financial Institutions (IFIs)

65. The slow progress on debt cancellation, and the continued imposition of macro-economic conditionalities through adjustment measures within the framework of the Poverty Reduction Strategy Papers (PRSP) hinders the realisation of ESCR34.

66. A recent Belgian Senate’s resolution³⁵ aims to cancel the debt of the Least Developed Countries. According to it, Belgium will have to strengthen its diplomatic action within IFIs in order to achieve the cancellation of public external debts to the IFIs without including the cancelled amounts as part of the budget for development cooperation. This Senate’s resolution also firmly rejects the macro-economic conditionalities imposed by IFIs and urgently demands that debt cancellation be granted on the basis of a new social approach defined by the MDGs.

67. Numerous financial investments and privatisation policies of IFIs have violated human rights. For example in Bolivia, the World Bank advised the government to privatise the Municipal Water and Sewage Authority. As a result, the company “Aguas del Illiman-Suez” received a 30-year concession to distribute potable water and treat sewage water in a district of La Paz. Through the International Finance Corporation (IFC), the World Bank owns 8% of the shares in this company. Due to the privatisation, the rates for connections to drinking water and sewage facilities amount to approximately 8 times the minimum monthly wage. In DRC, the World Bank, through the Multilateral Investment Guarantee Agency (MIGA), is guaranteeing since 2004 the investments of the Australian Company Anvil Mining³⁶ whose 3 employees are being prosecuted in DRC for complicity in war crimes. Still in DRC, the World Bank through its *Emergency Economic and Social Reunification Support Project* (EESRSP, effective since 2003) violates its own environmental internal policies and the right of the “Pygmy” indigenous people. The “Pygmies” have filed a complaint with the World Bank Inspection Panel in 2005 but this internal body does not provide an effective remedy, as can be concluded from the Bank’s own statements: “*the implementation of the Bank’s policy standards in projects does not result in substantive rights that individuals in borrowing countries may claim against the Bank, nor does the Inspection Panel represent legal remedy mechanism through which positions described in the Bank’s policies or rights referred to in a Resolution could be enforced against the Bank (...)*”³⁷.

³⁴ Fantu Cheru “Economic, Social and Cultural Rights, The Highly Indebted Poor Countries (HIPC) Initiative: a human rights assessment of the Poverty Reduction Strategy Papers (PRSP)” Economic and Social Council, Commission on Human Rights 57th Session (E/CN.4/2001/56).

³⁵ Document législatif n° 3-1507/6, adopted on 29 March 2007.

³⁶ http://www.cadm.org/imprimer.php?id_article=2341.

³⁷ Schlemmer-Schulte, S. (1999) “The World Bank Inspection Panel: A record of the first international accountability mechanism and its role for human rights”, Human Rights Brief Volume 6, Issue 2.

Recommendations

68. The Committee might recommend to Belgium:

- To monitor the effect of export practices to third countries on human rights, including consumer health and local income (e.g. farmers); to promote effective measures, including the denial of export licences for frozen chicken parts as long as the capacity and legislation to ensure food safety and import quotas in the importing country is not strengthened; to defend the right of third countries to protect strategic agricultural sectors in relation to food security and the right to an adequate living standard, in the framework of the EPA negotiations and other trade agreements.
- To observe the full respect, protection and fulfilment of economic, social and cultural rights with regards to granting export credits and to screening practices of companies abroad.
- To take clear measures to implement the Belgian Senate's resolution cancelling the debt of the Least Developed Countries.
- To ensure that economic, social and cultural rights are upheld in the decisions of the IFIs and to call for all actors involved in multilateral development projects to participate in setting up adequate mechanisms of legal recourse, effective remedies and legal assistance to affected people, victims of human rights violations.

C. The Right to Health in Third Countries³⁸

Justification

69. Health is a fundamental human right indispensable for the exercise of other human rights. Every human being is entitled to the enjoyment of the highest attainable standard of health conducive to living a life in dignity. The Alma-Ata Declaration proclaims that the existing gross inequality in the health status of the people, particularly between developed and developing countries, as well as within countries, is politically, socially and economically unacceptable and is, therefore, of common concern to all countries.³⁹

Issues of Concern

- i) The obligation to respect: the promotion of user fees and health insurance schemes

70. Belgian Development Cooperation (BDC) currently uses 'financial sustainability'⁴⁰ as a key criterion for making decisions concerning the financing of health sector projects. Unfortunately, this has led to BDC supporting ineffective or discriminatory projects that exclude the poorest and most vulnerable society members in developing countries from access to health care. Financial sustainability requirements based on national resources only

³⁸ Médecins sans Frontières Belgique – Artsen Zonder Grenzen België, Dupréstraat 94, 1090 Bruxelles – Contact : Gorik Ooms and Rachel Hammonds, phone : +32 2 474 74 01, e-mail : gorik.ooms@azg.be, rachelhammonds@yahoo.com.

³⁹ Article II, Alma-Ata Declaration, Report of the International Conference on Primary Health Care, Alma-Ata, 6-12 September 1978.

⁴⁰ Defined as the capacity to be continued by the recipient county free of external assistance after the end of the project. Also see Article 8.4 of the 1997 Royal Decree on the funding of NGOs.

lead to insufficient funding to realise essential health care. In particular, this insufficient funding for health leads to patients paying for essential health care through user fees and membership fees for health insurance schemes.

71. A 2004 MSF Belgium report⁴¹ documented the negative impact of user fees and cost recovery mechanisms (methods of ensuring financial sustainability) on access to health care by vulnerable groups in Burundi. On 1 May 2006, a Burundian Presidential Directive providing for free paediatric (children under the age of five) and maternal health services was implemented improving access to health care services for a majority of Burundians. General Comment 14 of the Committee stressed that maternal health care and health care for children under five are core obligation of States' parties to ICESCR. Since implementing the Presidential Directive Burundi has experienced an encouraging increase in utilisation of healthcare facilities by the population, but due to resource deficiencies this has led to overcrowding of healthcare facilities and other implementation issues.

72. As the Committee clarified in General Comment 14 "it is particularly incumbent on States parties and other actors in a position to assist, to provide "international assistance and cooperation, especially economic and technical" which enable developing countries to fulfil their core and other obligations.

73. Burundi is one of Belgium's key development partners. In Bujumbura, in October 2006 BDC Minister De Decker signed a three year cooperation agreement with the Burundian Government. It is still unclear whether BDC will provide additional financing support to the Burundian Government so it can improve access to free maternal and paediatric health care services.⁴² Also, health structures supported by Belgian cooperation aid struggle to handle an increased number of patients without additional Belgian funding. This is in sharp contrast with some other donors that have come forward rapidly to provide the government with extra funding to support the drug supply in light of increased demand.⁴³

ii) The obligation to protect: the failure to influence IMF and World Bank policy

74. Recent publications by WHO⁴⁴ and UNAIDS^{45 46} confirm the negative effect IMF and Bank policies, e.g. wage bill restrictions and macro-economic ceilings, have on public expenditure. Further, these affect the ability of developing countries to offer access to essential health care, in particular due to the negative consequences on their ability to retain and recruit the necessary human resources for health.

⁴¹ The Denial of Health Care to Vulnerable Groups in Burundi, <http://www.msf.be/fr/news/burundi.htm>.

⁴² Programme Indicatif de Coopération 2007-2009 (PIC), Coopération Belgique-Burundi, Annexe au procès verbal de la Commission mixte Belgique-Burundi de Coopération au Développement, Bujumbura 27 octobre 2006.

⁴³ DFID's Maternal Health Strategy: Reducing maternal deaths: evidence and action, Second Progress Report, <http://www.dfid.gov.uk/pubs/files/maternal-health-progress-report.pdf>, see p. 14.

⁴⁴ The World Health Report 2006 - working together for health, WHO Geneva, chapter 7, p.157 and onwards. <http://www.who.int/whr/2006/en/>.

⁴⁵ UNAIDS The road to universal access: the next steps, 2006; p. 25: 'But the burden of sustainability should not fall on the world's poorest countries...'

⁴⁶ United Nations General Assembly, Scaling up HIV prevention, treatment, care and support. Point 1.4 in declaration of General Secretary.

75. Some donors have pressured the Bank and IMF to adapt mechanisms to allow increased international spending on measures to combat the human resources for health crisis. The agreement reached in Malawi allowing the financing of an emergency human resources action plan by international funding shows that concrete measures are possible: with the commitment of international funds, an automatic adjustment is made to lift the restrictions on the wage bill for health staff and public spending.^{47 48}

Recommendations

76. The Committee might recommend to Belgium:

- To abandon the financial sustainability requirement and actively support and fund free access to health care in countries where such programmes will increase access to essential health care, in particular for vulnerable groups (i.e. through higher utilisation rates at health centres).
- To condition any future contribution to the replenishment of the International Development Association such that Belgian funds should be used to respect, protect and fulfil the right to health, and thus in conformity with Belgium's obligations under the ICESCR.

Part III : an Optional Protocol to the ICESCR

A. Optional Protocol⁴⁹

Justification

77. In relation to this parallel report on Belgium's obligations under the ICESCR, the Coalition of Belgian Civil Society for Economic, Social and Cultural Rights would also like to address a broader issue, i.e. that of an Optional Protocol to the ICESCR. Efforts to establish a complaints procedure for violations of economic, social and cultural rights (ESC) have been underway for more than a decade now, and partner organisations in the South, particularly in South-America, have stressed the crucial importance of accountability for violations of ESC rights.

Issues of concern

78. Belgium has demonstrated a sustained commitment to ESC rights. It has recently ratified important European instruments in this regard, like the Optional Protocol to the European Social Charter providing for a system of collective complaints (ratified in June 2003), and the revised European Social Charter (ratified in March 2004). It is equally committed to the availability of complaints mechanisms for violations of human rights, both at the regional and universal level.

79. In respect of the Optional Protocol to the ICESCR, Belgium is among the countries that favour the drafting and adoption of the Optional Protocol in the open-ended working

⁴⁷ Debbie Palmer, Tackling Malawi's human resources crisis. *Reproductive Health Matters* 2006; 14(27): 27-39.

⁴⁸ IMF Malawi letter of intent, Memorandum of Economic and Financial policies and Technical memorandum of Understanding, January 20, 2006. Attachment II, p. 17, point 20 and p.19 point 29. accessed on www.IMF.org/external/countries/mwi.

⁴⁹ Coalition of Belgian Civil Society for Economic, Social and Cultural Rights – Contact: Bart Verstraeten, phone: + 32 2 246 36 94, fax: + 32 2 246 30 10, e-mail: bart.verstraeten@socialalert.org.

group. With regards to the substantive issues surrounding the complaints procedure, the Coalition of Belgian Civil Society for Economic, Social and Cultural Rights would like to insist that Belgium takes as a starting point the consensus reached on the occasion of the adoption of recent human rights instruments providing for a complaints procedure, such as the Optional Protocol-CEDAW. Belgium should further insist on the need for a comprehensive approach, whereby all ICESCR rights are covered; on standing for individuals, groups as well as organisations; on the inclusion of both a complaints and an inquiry procedure; on the need for the possibility of taking temporary measures, and on a proper follow-up procedure in case a violation has been found.

Recommendations

80. The Committee might recommend to Belgium:

- To continue contributing in a positive spirit to the drafting of the Optional Protocol, while aligning with those other states in the European Union that take a positive approach on this issue, and to actively engage in the open-ended working group.

Consolidated List of Recommendations

81. With regard to the national obligations, the Committee may recommend to Belgium:

Principle of Non-Discrimination

- i) To improve the practical and effective application of existing socio-economic rights of migrant workers, to further develop a comprehensive and rights-based policy for migrant workers, including undocumented migrants and to ratify the 1990 UNCMW to this end.

Right to Housing

- ii) To provide housing policy subsidies, as a matter of priority, to the most vulnerable groups. At least 30% of the budget should be reserved for the necessary expansion of social housing. At least 30% of the available budget should be reserved for improving the quality of housing offered on the private market. A maximum of 30% could be used for stimulating the acquisition of property, in which the lower income groups be prioritized.
- iii) To establish a mechanism that guarantees an objective linkage between the level of rent charged and the condition of the dwelling.

Right to Health

- iv) To bring itself into conformity with its international human rights obligations by extending to all asylum seekers and undocumented/illegal individuals the same medical care, on the same basis as legal residents of Belgium.

Right to Education

- v) The establishment of a structured dialogue between the Belgian federal and/or regional authorities and the Manush and Rom peoples with a view towards setting up culturally adapted/appropriate education and other necessary provisions so as to provide sufficient means for the education of Manush and Rom in Belgium.
- vi) To ratify, implement and promote ILO Convention 169.

82. With regard to the international obligations, the Committee may recommend to Belgium:

International Assistance and Co-operation

- vii) To increase the budget for development co-operation in order to reach 0,7% of GNI in 2010 at the latest, and to ensure that the growth in spending for development co-operation be real and genuine, and not the mere result of wider eligibility criteria of existing expenses in other governmental fields.
- viii) To ensure higher predictability of its development co-operation efforts, inter alia by making multi-annual budgetary commitments, both in the strategy papers as drawn up by the Directorate-General for Development Co-operation as well as in the annual budget.

Human rights obligations and international trade, investment and financing mechanisms

- ix) To take a proactive approach to the obligation of international assistance through mainstreaming and institutionalising extraterritorial human rights obligations in its executive branch, in particular by reinforcing the capacity of the competent authorities to analyse the implications of Belgian policies in the fields of trade agreements, officially supported export credits, debt cancellation and development projects/macro-economic policy setting supported by the IFIs, on the enjoyment of economic, social and cultural rights outside its territory.

Right to Health

- x) To abandon the financial sustainability requirement and actively support and fund free access to health care in countries where such programmes will increase access to essential health care, in particular for vulnerable groups (i.e. through higher utilization rates at health centres).
- xi) To condition any future contribution to the replenishment of the International Development Association such that Belgian funds should be used to respect, protect and fulfil the right to health, and thus in conformity with Belgium's obligations under the ICESCR.

83. With regard to an Optional Protocol, the Committee may recommend to Belgium:

Optional Protocol

- xii) To continue contributing in a positive spirit to the drafting of the Optional Protocol, while aligning with those other states in the European Union that take a positive approach on this issue, and to actively engage in the open-ended working group.
