



# Economic and Social Council

Distr.: General  
26 March 2020  
English  
Original: French

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## Committee on Economic, Social and Cultural Rights

### Concluding observations on the fifth periodic report of Belgium\*

1. The Committee considered the fifth periodic report of Belgium (E/C.12/BEL/5) at its 6th and 7th meetings (see E/C.12/2020/SR.6 and 7), held on 19 and 20 February 2020, and adopted the present concluding observations at its 30th meeting, held on 6 March 2020.

#### A. Introduction

2. The Committee welcomes the submission by the State party of its fifth periodic report, on the basis of a list of issues prior to reporting drawn up by the Committee (E/C.12/BEL/QPR/5). It expresses its appreciation to the State party for having accepted the simplified reporting procedure, as this provides an opportunity to have a focused consideration of the report and dialogue with the delegation. The Committee expresses its appreciation for the open and constructive dialogue with the State party's high-level interministerial delegation.

#### B. Positive aspects

3. The Committee welcomes the State party's commitment to continue ensuring the full enjoyment of economic, social and cultural rights, and the efforts it has made in this respect, including the adoption of the National Action Plan on Business and Human Rights on 23 June 2017, the establishment of a national human rights institution by the Act of 12 May 2019 and the adoption of the National Climate Change Adaptation Plan for the period 2017–2020. The Committee also commends the State party's support in climate negotiations for a human-rights based approach, including in the context of the Gender Action Plan, the Local Communities and Indigenous Peoples Platform and Action for Climate Empowerment.

4. The Committee notes with appreciation the ratification of the Optional Protocol to the International Covenant on Economic, Social and Cultural Rights and the recognition of the Committee's competence with regard to the inquiry procedure provided for in article 11 of the Optional Protocol, on 20 May 2014.

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\* Adopted by the Committee at its sixty-seventh session (17 February–6 March 2020).



## C. Principal subjects of concern and recommendations

### The Covenant in the domestic legal order

5. The Committee notes that the State party's domestic law does not recognize the applicability of the Covenant and all its provisions. It notes with concern that the Covenant is very rarely invoked before the courts.

6. **The Committee reiterates the recommendations made in its previous concluding observations that the State party guarantee the applicability of the Covenant provisions in its domestic legal order (E/C.12/BEL/CO/3, paras. 24 and 25; E/C.12/BEL/CO/4, para. 7). It also recommends that the State party intensify its efforts to acquaint lawyers, judges and magistrates, as well as the general population, with the Covenant and its Optional Protocol. It draws the State party's attention to its general comment No. 9 (1998) on the domestic application of the Covenant.**

### National human rights institution

7. While it notes that a federal human rights institution was established in 2019, the Committee is nonetheless concerned that the institution currently has a mandate only at the federal level, that it lacks competence to receive individual complaints and that it has not entered into a cooperation agreement with the existing national human rights institutions, such as Unia.

8. **The Committee recommends that the State party expand the mandate of the national human rights institution in line with the principles relating to the status of national institutions for the promotion and protection of human rights (the Paris Principles) so that it covers both the federal State and the regions. It requests the State party to ensure coordination between the various human rights bodies. The Committee also encourages the State party to consider authorizing the institution to receive and consider complaints and petitions concerning individual situations, particularly in relation to economic, social and cultural rights.**

### Climate change

9. The Committee welcomes the adoption of a national climate change adaptation plan. However, it notes with concern that the State party is not on track to meet its target of a 15 per cent reduction in greenhouse gas emissions by 2020 and a 35 per cent reduction by 2030, compared with the levels recorded in 2005.

10. **The Committee recommends that the State party intensify its efforts to meet its greenhouse gas emissions reduction targets for 2020 and that it raise its target for 2030 so that it is consistent with the commitment to limit temperature rise to 1.5°C. It recommends that the State party take the measures necessary to implement the European Union strategy for achieving the transition to a net-zero-greenhouse gas emissions economy by 2050. It also recommends that the State party regularly update its national adaptation plan with the full participation of the regions and the communities. In this regard, the State party is referred to the Committee's statement on climate change and the Covenant (E/C.12/2018/1), adopted on 8 October 2018, and to the joint statement on human rights and climate change issued on 16 September 2019 by the Committee on the Elimination of Discrimination against Women, the Committee on Economic, Social and Cultural Rights, the Committee on the Protection of the Rights of All Migrant Workers and Members of Their Families, the Committee on the Rights of the Child and the Committee on the Rights of Persons with Disabilities.**

### Business and human rights

11. The Committee notes that the first National Action Plan on Business and Human Rights was adopted on 23 June 2017. While it recognizes the 33 implementation measures listed therein, the Committee is, however, concerned that the Action Plan is purely

voluntary, and that it lacks an effective complaints system and a support mechanism for victims of reprisals.

**12. In addition to its implementation of the National Action Plan on Business and Human Rights, the Committee recommends that the State party adopt a binding regulatory and normative framework that:**

**(a) Requires business entities based in the State party to exercise human rights due diligence in their operations and in their business relationships, both in the State party and abroad;**

**(b) Holds business entities liable for violations of economic, social and cultural rights;**

**(c) Enables victims, including victims of reprisals, to seek remedies through judicial and non-judicial mechanisms.**

**13. The Committee encourages the State party to include those elements in its next national action plan on business and human rights. The Committee refers the State party to its general comment No. 24 (2017) on State obligations under the International Covenant on Economic, Social and Cultural Rights in the context of business activities.**

#### **International cooperation**

14. The Committee notes with appreciation the attention paid to climate change by the State party, in particular through its financing of international funds such as the Least Developed Countries Fund and the Adaptation Fund, and its funding of mitigation and adaptation activities in recipient countries. However, the Committee regrets that the State party has not reached the 0.7 per cent target for official development assistance over gross national income (art. 2).

**15. The Committee reiterates the recommendation made in its previous concluding observations that the State party step up its efforts to attain the objective of increasing its international official development assistance to 0.7 per cent of gross domestic income (para. 9). It also encourages the State party to maintain its financial contributions to the Adaptation Fund to mitigate the impact of climate change in recipient countries.**

#### **Taxation**

16. The Committee is concerned that certain types of income are taxed more favourably than employment income. It also notes with concern that corporate taxes have been cut. The Committee is further concerned at the very high estimated loss of revenue due to tax evasion and tax fraud (art. 2).

**17. The Committee recommends that the State party ensure that its taxation system allows the maximum resources to be mobilized for the progressive realization of economic and social rights, in particular for marginalized population groups. To that end, it recommends that the State party review corporate taxes to avoid a race to the bottom that would reduce its capacity to mobilize domestic revenues and would lead to greater inequalities. The Committee also recommends that the State party strengthen measures against tax evasion and tax fraud.**

#### **Non-discrimination**

18. The Committee notes the establishment, in 2016, of the Commission for the evaluation of federal anti-discrimination legislation, whose mandate is to assess federal laws against discrimination, racism and gender discrimination. The Committee is nonetheless concerned at the inadequate implementation of the 33 recommendations contained in the Commission's first report, issued in 2017, and by the lack of a complaint mechanism for language discrimination (art. 2).

**19. The Committee requests the State party to implement the recommendations issued by the Commission for the evaluation of federal anti-discrimination legislation.**

**It also recommends that the State party designate a body responsible for addressing complaints of language discrimination. In this connection, the Committee draws the attention of the State party to its general comment No. 20 (2009) on non-discrimination in economic, social and cultural rights.**

#### **Roma people**

20. The Committee notes with concern the shortcomings in the implementation of the national strategy for the integration of Roma people and the absence of specific measures to combat discrimination against the Roma community, in particular Roma women and children. The Committee is also concerned about persistent antigypsyism (art. 2).

**21. The Committee recommends that the State party ensure effective implementation of the national strategy for the integration of Roma people, through the adoption of an intergovernmental action plan including specific measures for Roma women and children and receiving a specific and adequate budget. It also recommends the adoption of an intergovernmental action plan to combat antigypsyism.**

#### **Migrants, refugees and asylum seekers**

22. The Committee is concerned at the persistence of discrimination against migrants, in particular those from outside the European Union, as regards their access to employment, housing, health care and adequate food. The Committee is particularly concerned about the labour exploitation of migrants and refugees in physically demanding, low-skilled work sectors (art. 2).

**23. The Committee recommends that the State party strengthen the measures taken to prevent discrimination against migrants, refugees and asylum seekers in the enjoyment of their economic and social rights. It also recommends that the State party ensure the effectiveness of its laws to combat discrimination in the workplace, especially in the private sector, and in access to housing. It further recommends that the State party guarantee a decent standard of living for asylum seekers, including in the event of subsequent applications or disciplinary action. In this regard, the State party is referred to the Committee's statement on duties of States towards refugees and migrants under the Covenant (E/C.12/2017/1), adopted in 2017.**

#### **Persons with disabilities**

24. The Committee is concerned at the lack of disaggregated statistical data on the employment of persons with disabilities. In addition, it is concerned at the very low employment rate for persons with disabilities and the low employment rate for persons with disabilities in the public sector, which is well below the quotas and targets set by the public authorities (art. 2).

**25. The Committee recommends that the State party take the measures necessary to facilitate access to employment for persons with disabilities by: (a) guaranteeing reasonable accommodation for persons with disabilities in the labour market; (b) ensuring compliance with the quotas set by the public authorities; and (c) supporting private companies to promote the recruitment of persons with disabilities. The Committee also recommends that the State party collect disaggregated statistical data on persons with disabilities in the labour market.**

#### **Equality between men and women**

26. The Committee is concerned at discrimination against women in the economic and social spheres, especially the persistent wage gap between men and women and the obstacles faced by women in gaining access to decision-making positions in the public and private sectors. The Committee is also concerned at the lack of recognition of the situations of intersectionality affecting women in the most marginalized segments of society (art. 3).

**27. The Committee recommends that the State party intensify its efforts to achieve substantive equality between men and women and, in particular, that it:**

(a) **Effectively implement the Act of 22 April 2012 aimed at reducing the wage gap between men and women, and its amendment of 12 July 2013;**

(b) **Continue to promote increased representation of women at all levels of the public administration, particularly in decision-making positions, and promote their participation in management roles in the private sector;**

(c) **Ensure equitable parental leave and take the measures necessary to increase the capacity of childcare services;**

(d) **Take into consideration its general comment No. 16 (2005) on the equal right of men and women to the enjoyment of all economic, social and cultural rights, especially in situations of intersectionality.**

#### **Labour and trade union rights**

28. The Committee is concerned at: (a) the unemployment and underemployment of young people, those over 55 years of age and persons with disabilities; (b) the difficulties encountered by women, especially women with children, in accessing stable employment; (c) the termination of measures to promote employment for persons over 50 years of age; and (d) the disproportionate gap in the unemployment rate between different employment categories, according to the level of skill. The Committee is also concerned at the lack of legal recognition for the right to strike (arts. 6 and 8).

29. **The Committee recommends that the State party: (a) intensify its efforts to address the challenges faced by certain population groups, including young people, older persons and migrant workers, in gaining access to employment; (b) adopt the necessary measures to eliminate access barriers to employment based on level of skill; and (c) intensify its efforts, in coordination with all federated entities, to take effective measures to address the issue of unemployment among persons over 55 years of age. The Committee also recommends that the State party guarantee the exercise of the right to strike in law and in practice, in full compliance with the Covenant. The Committee draws the State party's attention to its general comment No. 18 (2005) on the right to work and refers it to its joint statement with the Human Rights Committee on freedom of association, including the right to form and join trade unions (E/C.12/66/5-CCPR/C/127/4), adopted in 2019.**

#### **Domestic work**

30. The Committee notes the measures taken by the State party in relation to domestic work, particularly the inclusion of domestic workers in the coverage provided by the 2014 social security legislation. However, it remains concerned at the lack of specific measures for the protection of domestic work (art. 7).

31. **The Committee recommends that the State party ensure that domestic workers, who are mainly employed to provide personal care and support services, enjoy the same conditions as other workers as regards remuneration, rest and leisure, limitation of working hours and protection against unfair dismissal. It also recommends that the State party provide them with protection from all forms of exploitation and abuse, including by improving complaint mechanisms so as to make them easily accessible to these workers and by ensuring that labour inspectorates are effective in monitoring their conditions of work. In this regard, the Committee draws the attention of the State party to its general comment No. 23 (2016) on the right to just and favourable conditions of work.**

#### **Self-employed workers**

32. The Committee notes with concern that the social contributions for self-employed workers are lower than those for employees. Furthermore, it is concerned that self-employed workers face a higher risk of poverty, including because they are not entitled to unemployment benefits (art. 7).

33. **The Committee recommends that the State party ensure that self-employed workers can receive unemployment benefits, and that the level of those benefits is**

sufficient to provide the beneficiaries with an adequate standard of living. The Committee refers the State party to its general comment No. 19 (2007) on the right to social security.

#### **Gender-based violence**

34. While it notes the interim report on the National Action Plan to Combat All Forms of Gender-based Violence for the period 2015–2019 and the statement recognizing sexual and domestic violence as a security priority, the Committee is concerned that the State party has not evaluated the effectiveness of measures to combat gender-based violence. Furthermore, it is concerned at the lack of effective protection for migrant women, particularly those in an irregular situation, who often refrain from reporting such violence for fear of being deported (art. 10).

**35. The Committee recommends that the State party ensure the implementation of the recommendations from the evaluation of the National Action Plan to Combat All Forms of Gender-based Violence, maintain the financing of victim support centres and strengthen the prevention of new forms of gender-based violence, such as online harassment. It also recommends that the State party establish mechanisms enabling migrant women in an irregular situation to report violence against them without fear of deportation.**

#### **Poverty**

36. The Committee takes note of the third federal poverty reduction plan and the poverty reduction plans developed by the communities and regions. It is, however, concerned that the federal plan has not been fully implemented, the State party not having met its goal of reducing by 380,000 the number of people living in poverty. Moreover, the Committee is particularly concerned at the high rate of child poverty (art. 11).

**37. The Committee recommends that the State party ensure that its fourth federal poverty reduction plan: (a) is focused on the most marginalized individuals and groups, especially children; (b) is developed with the participation of persons living in poverty and the associations that represent them; and (c) takes into account the evaluation of the third federal poverty reduction plan. It also recommends that the State party raise statutory minimum income benefits above the at-risk-of-poverty threshold and that it ensure access to high-quality public services for children living in poverty. The State party is referred to the Committee's statement on poverty and the Covenant, adopted on 4 May 2001 (E/C.12/2001/10).**

#### **Right to adequate housing**

38. The Committee is concerned at the shortage of social housing, despite the efforts of the regions, and the lack of coordination on housing policy between the federal State and the regions (art. 11).

**39. The Committee recommends that the State party make better-quality affordable housing more widely available, in particular by expanding the supply of social housing, addressing the problem of unoccupied private and public buildings and regulating rents on the private rental market. The Committee refers the State party to its general comment No. 4 (1991) on the right to adequate housing.**

#### **Forced evictions**

40. The Committee is concerned at the increase in forced evictions and the invisibility of this trend, owing in particular to the absence of relevant aggregated data at the federal level. The Committee is also concerned at the evictions of Roma families and the fact that caravans are not adequately protected as a place of residence (art. 11).

**41. The Committee recommends that the State party ensure, in all three regions, that evictions are carried out only as a last resort, even when the accommodation has been declared unsanitary, except if there is an imminent risk to health or safety. It also recommends that the State party: (a) prohibit forced eviction without the**

**allocation of alternative housing; (b) intensify its efforts to equip residential sites for Roma families; (c) ensure that caravans are effectively protected as a place of residence; and (d) systematically record all cases of evictions. The Committee refers the State party to its general comment No. 7 (1997) on forced evictions.**

#### **Access to electricity and gas**

42. The Committee is concerned at the impact of energy costs on household budgets, especially those of low-income households. It is also concerned about the practice of cutting off gas and electricity for non-payment of bills (art. 11).

**43. The Committee recommends that the State party take the measures necessary to ensure a minimum supply of energy, even when a meter is installed. It also recommends that the State party expand coverage for beneficiaries of the social tariff, by allocating more financial resources to the Gas and Electricity Fund.**

#### **Right to water and sanitation**

44. The Committee is concerned at the increase in water bills in all regions of the State party. It is particularly concerned at the practice of cutting off water or limiting household water supply, including by the use of flow limiters in the Flemish and Walloon regions (art. 11).

**45. The Committee recommends that the State party ensure that water remains affordable for households and that it consider establishing a social tariff for water. It also recommends that a minimum supply of water and sanitation services, taking into account household size, be guaranteed, including when water flow limiters are used in the Walloon and Flemish regions. The State party is referred to the Committee's general comment No. 15 (2002) on the right to water.**

#### **Homelessness**

46. The Committee is concerned at the persistence of homelessness in the State party and the absence of national data on homeless persons. The Committee is also concerned by the lack of implementation of the cooperation agreement on homelessness and housing exclusion signed in 2014 by the federated entities (art. 11).

**47. The Committee recommends that the State party ensure the effective coordination of the efforts of the federal State and the regions to ensure that follow-up is given to the cooperation agreement on homelessness and housing exclusion. It also recommends that the State party gather data on homeless persons at the national level.**

#### **Right to adequate food**

48. The Committee welcomes the introduction of nutritional information labelling on food packaging. However, it is concerned about the increasing incidence of overweight and obesity and the fact that the State party has not taken sufficient measures to reduce the consumption of sugary beverages or adopted regulations to restrict the advertising of foods generally incompatible with a healthy diet (art. 11).

**49. The Committee recommends that the State party:**

**(a) Adopt a normative framework that expressly recognizes the right to food and steers public policies that ensure access to healthy, nutritious and sufficient food, especially for disadvantaged groups;**

**(b) Take effective measures to discourage the consumption of unhealthy foods and drinks and consider an increase in the tax on sugary beverages;**

**(c) Impose restrictions on the advertising of harmful or unhealthy foods and beverages, especially those intended for children.**

**Small-scale farming**

50. The Committee reiterates its concern at the significant reduction in small-scale farming and the difficulties encountered by small farmers (art. 11).

**51. The Committee recommends that the State party strengthen existing measures and take all additional measures necessary to protect and support the development of small-scale farming.**

**Access to health care**

52. The Committee is concerned at the inequalities in access to health care by income level, to the detriment of those with the lowest incomes. It is also concerned at the practical difficulties encountered by irregular migrants in accessing emergency health-care services. In addition, the Committee regrets the lack of information regarding access to health-care services by persons with disabilities (art. 12).

**53. The Committee recommends that the State party strengthen specific measures to ensure access to health-care services for the most marginalized individuals, including emergency health care for migrants. It also recommends that the State party strengthen the capacity of its health-care system to ensure that it can be accessed by persons with disabilities.**

**Intersex persons**

54. The Committee is concerned at the situation of intersex minors, and in particular the practice of performing surgical procedures that are often irreversible and medically unnecessary or non-urgent and that are detrimental to the physical and mental integrity of the individuals concerned (arts. 10 and 12).

**55. The Committee recommends that, under the Interfederal Action Plan to Combat Discrimination and Violence against Lesbian, Gay, Bisexual, Transgender and Intersex Persons, the State party:**

**(a) Ensure that, in practice, medically unnecessary or non-urgent procedures on the sex characteristics of intersex children are not performed until the children are capable of forming their own views and can give their informed consent;**

**(b) Provide greater information on intersexuality and train health-care personnel on the health needs and human rights of intersex persons, including their right to autonomy and physical integrity;**

**(c) Ensure that intersex persons and organizations continue to be consulted and participate in the development of research, legislation and policies concerning their rights.**

**Access to education**

56. The Committee is concerned at: (a) the de facto segregation of children based on their social background and the difficulties faced in schools by children with disabilities; (b) irregular attendance at nursery school and regional and socioeconomic disparities; (c) the lack of data on Roma children, including to evaluate the effectiveness of the measures taken to facilitate their access to education; (d) the lack of access by the French-speaking minority to French-language education in the Brussels-Capital region; and (e) the risk of school dropout caused by the ban on wearing religious symbols in public educational establishments (art. 13).

**57. The Committee recommends that the State party:**

**(a) Intensify its efforts, in cooperation with the regions, to address the issue of school dropout, particularly among socially disadvantaged and marginalized children;**

**(b) Ensure inclusive education so as to counter socioeconomic segregation and wide educational inequalities, by facilitating access to primary, secondary and higher education establishments by underrepresented groups;**



- (c) Guarantee access to high-quality preschool education for all children, in particular those from disadvantaged families;
- (d) Ensure that the ban on wearing religious symbols in public and private educational establishments does not have any negative impact on access to education.

#### **D. Other recommendations**

58. The Committee recommends that the State party take fully into account its obligations under the Covenant and ensure the full enjoyment of the rights enshrined therein in the implementation of the 2030 Agenda for Sustainable Development at the national level. Achievement of the Sustainable Development Goals will be significantly facilitated if the State party establishes independent mechanisms to monitor progress and treats beneficiaries of public programmes as rights holders who are entitled to avail themselves of their rights. Implementing the Goals on the basis of the principles of participation, accountability and non-discrimination would ensure that no one is left behind. In this regard, the State party's attention is drawn to the Committee's statement on the pledge to leave no one behind (E/C.12/2019/1).

59. The Committee recommends that the State party take steps to progressively develop and apply appropriate indicators on the implementation of economic, social and cultural rights in order to facilitate the assessment of progress achieved by the State party in complying with its obligations under the Covenant for various segments of the population. In that context, the Committee refers the State party to the conceptual and methodological framework on human rights indicators developed by the Office of the United Nations High Commissioner for Human Rights (HRI/MC/2008/3).

60. The Committee requests that the State party disseminate the present concluding observations widely at all levels of society, including at the federal, community and regional levels, in particular among parliamentarians, public officials and judicial authorities. It encourages the State party to engage with all national human rights institutions, with non-governmental organizations and with other members of civil society in the follow-up to the present concluding observations and in its consultations at the national level prior to the submission of its next periodic report.

61. In accordance with the procedure on follow-up to concluding observations adopted by the Committee, the State party is requested to provide, within 24 months of the adoption of the present concluding observations, information on the implementation of the recommendations made by the Committee in paragraphs 31 (domestic work), 37 (poverty) and 41 (forced evictions) above.

62. The State party is invited to submit its sixth periodic report by 31 March 2025. For that purpose, and in view of the fact that the State party has agreed to report to the Committee under the simplified reporting procedure, the Committee will, in due course, transmit to the State party a list of issues prior to reporting. The State party's replies to that list of issues will constitute its sixth periodic report under article 16 of the Covenant.