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COMMITTEE ON ECONOMIC, SOCIAL AND CULTURAL RIGHTS

Thirty-ninth session

SUMMARY RECORD OF THE FIRST PART (PUBLIC)^{*} OF THE 43rd MEETING

Held at the Palais Wilson, Geneva,
on Tuesday, 13 November 2007, at 10 a.m.

Chairperson: Mr. TEXIER

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

CONSIDERATION OF REPORTS:

(a) REPORTS SUBMITTED BY STATES PARTIES IN ACCORDANCE WITH ARTICLES 16 AND 17 OF THE COVENANT (agenda item 6) (continued)

Third periodic report of Belgium (continued) (E/C.12/BEL/3; E/C.12/BEL/Q/3 and Add.1; HRI/CORE/1/Add.1/Rev.1)

1. At the invitation of the Chairperson, the members of the delegation of Belgium resumed their places at the Committee table.

Articles 13 to 15 of the Covenant

2. Mr. RZEPLINSKI noted that there were greater disparities between schools in the Flemish and Walloon communities, in particular in the French-speaking part, than in most countries, and he asked whether a group of schools actually existed that had a very bad reputation with regard to either the quality of primary and secondary schooling or social problems. He also enquired what specific measures had been taken by educational bodies in the two communities to promote equal access to equal quality education, in particular for the residents of certain urban neighbourhoods; he had difficulty imagining how such disparities could persist in a country as rich as Belgium. He would also like to know whether special funding was allocated to schools to which affluent families avoided sending their children and whether a plan of action existed to ensure that children of the next generation did not have the same behavioural patterns – or the same fate – as their parents.

3. Ms. WILSON, noting with interest that the French-speaking, Flemish-speaking and German-speaking communities had exclusive powers in the area of education, asked whether federal norms existed in that regard, for example for obtaining a school-leaving certificate. Did a harmonization take place at university level, or were there separate rules in all those areas? She also enquired about the linguistic requirements in schools located in adjacent language communities and in particular whether children could enrol in the school in which the language was most in line with the linguistic preferences of their parents.

4. Although it was stated in paragraph 735 of the third periodic report that Belgium had no official minority, there was a 1998 Flemish decree on ethno-cultural minorities, and it would be interesting to learn whether its equivalent existed in the other two communities. It would also be useful if the delegation could explain why Belgium did not recognize cultural minorities and whether the State party had the intention of some day ratifying the Council of Europe's Framework Convention for the Protection of National Minorities, and if not, whether Belgian domestic law was an obstacle to ratification.

5. Mr. MARCHAN ROMERO recalled that the Committee had asked the State party, after considering its second periodic report, to provide in the report under consideration information on respect for the right to participate in cultural life. He was pleased to note that Belgium had described in detail the various measures taken at the level of the three communities. In the French-speaking region, for example, very interesting principles had been implemented,

including the democratization of culture, which provided for educational programmes for all age and social groups, artistic tours, and a sociocultural policy of equal opportunity for underprivileged groups. However, those separate descriptions gave the impression that there were three separate States parties. It would be useful to have a more detailed description of the central role of the Government, because the information on activities at federal level were limited to one page and only concerned copyrights.

6. It seemed that the State party, which did not officially recognize minorities, classified as “ethnic-cultural minorities” refugees, caravan dwellers, groups of foreigners illegally residing in Belgium and persons seeking relief or assistance – in other words, it used the term for groups in a vulnerable situation, without taking account of the intrinsic cultural value of a given ethnic group, regardless of the vulnerable situation in which it might find itself. He asked the delegation to explain what was meant by “ethnic-cultural”.

7. Mr. KERDOUN asked for further details on the three different school systems. He wondered which one produced the best results and whether a child could be enrolled in any of the three as long as he or she mastered the language. He also enquired which of the three languages was most in demand in the context of international cooperation with other countries on educational matters.

8. Mr. ABDEL-MONEIM asked to what extent Belgian universities had ensured the progressive introduction of free education and whether the reform of higher education would move in that direction, since paragraph 674 of the third periodic report seemed to have been drafted expressly to comply with the requirements of article 13, paragraph 2 (c), of the Covenant. According to a report by the Organization for Economic Cooperation and Development (OECD), for 2002 Belgium had earmarked 6.4 per cent of its gross national product (GNP) for education, which was more than the average in OECD countries (5.8 per cent) and thus very good. However, the report also indicated that universities, although they received 1.4 per cent of GNP, seemed to be underfunded, and large numbers of researchers were leaving the public sector for the private sector, which was a problem in most countries of the world. He would welcome comments from the delegation on that situation.

9. Ms. BONOAN-DANDAN noted that she had not received an answer to her question on the measures taken by the Government to ensure equal access to food for Roma, Sinti and travellers. She also asked whether human rights education was part of the school curricula at all levels, whether it included teaching in economic, social and cultural rights and whether public awareness campaigns had been conducted, given the problems of xenophobia and discrimination which the Government was currently attempting to address. She would also like to know what the results had been and whether State civil servants, and judges and police officers in particular, were made sufficiently aware of human rights. Lastly, she enquired whether children were taught about the culture of other communities, and in particular about Roma and Sinti communities.

10. Ms. BARAHONA RIERA asked whether a bill existed to prohibit corporal punishment of children and whether domestic violence had been made a specific offence. As she understood it, the Criminal Code had been amended and that type of violence now constituted aggravated assault and battery, but was not an offence as such. The problem was very widespread, and the Committee believed that all States should introduce a specific mechanism to punish it. It would also be useful to have information on the penalties provided by the law and on court decisions in

that regard. Lastly, the Committee would appreciate further information on the protection of unaccompanied children present in Belgium without a residence permit.

11. Mr. KOLOSOV asked whether the judicial system was unified in the area of culture, i.e. at what judicial level cases concerning education and culture were heard. He would also like to know whether the State party had taken any measures to protect children and adolescents from the at times harmful influence of the information technologies, and in particular violence and pornography on the Internet, and if so, whether the measures had been taken by the federal authorities or by the language communities.

12. Mr. CALLEWAERT (Belgium) said that prior to 1995, development cooperation had consisted in providing services to the populations of partner countries, and thus the results had rarely been sustainable. Once the donor had withdrawn, many things had collapsed. Moreover, the conditions imposed by the International Monetary Fund (IMF) had been part of a uniform neo-liberal policy that had taken little account of the specific characteristics of States. Very often, the local authorities had circumvented IMF requirements and had conducted policies which had favoured the rich to the detriment of the poor. Since 1995, however, development cooperation had invariably focused on strengthening the structures of States so that they themselves could provide services to the population. The goal was for the recipient countries to have greater financial means and the institutional capacities needed to implement their development policy. Whereas the donors helped reinforce the capacities of the recipient countries, the latter were responsible for providing the services to which their populations were entitled. That differentiation was the backbone of current development policy.

13. Ms. FASTRE (Belgium) said that since July 2003, women opting for in vitro fertilization were entitled to reimbursement of laboratory expenses for a maximum of six attempts if they applied to one of the 18 nationally recognized specialized centres. Contraceptives were better reimbursed for women under 21 years of age; in 2004, 84 per cent of women between 15 and 24 years of age had used contraceptives, as against 63 per cent for women between 25 and 49 years of age. With regard to the 15,600 abortions performed in 2003, the average age of the women concerned was 27 years; 48 per cent were between 20 and 30 years old. Four times as many men were infected by HIV/AIDS as women, but the younger the bearer of the virus, the higher the proportion of women, a circumstance that had led to the organization of public awareness campaigns both in the federate entities and at national level. A number of public bodies as well as specialized associations provided women with assistance in the areas of reproductive health and maternal and child care.

14. Ms. MONCAREY (Belgium) said that in the Walloon region, there was a mediation centre for travellers which estimated that there were between 15,000 and 20,000 Roma present on Belgian territory, including those who had recently arrived from the countries of eastern Europe. A study conducted in 2001-2002 on the health of Roma had found that the life expectancy of members of that community was 55 years, or 20 years less than that of the native population; hence the measures taken to close the gap.

15. Mr. VANDAMME (Belgium) said that he did not know what measures had been taken for Roma but that in principle there was no reason why they should be discriminated against when they turned to the public authorities or sought access to food banks, since they had the same rights as any national.

16. The Belgian Constitution had established three separate language communities: the German-speaking community, the French-speaking community and the Flemish-speaking community. Minorities present on Belgian territory, such as the Roma, were entitled to the rights inherent in their status under international law. Belgium had defined the status of its own communities in its domestic law and was thus reluctant to apply the Council of Europe's Framework Convention for the Protection of National Minorities out of a concern that it might disturb the already fragile national political balance.

17. Ms. GALLANT (Belgium) said that the State party had a mechanism for the legal representation of unaccompanied foreign minors who arrived on Belgian territory or at the border, regardless of whether they were applying for refugee status or did not have the required entry or residence documents. Belgium had set up special guardianship rules, and pursuant to the planning law of 24 December 2002, it had established a guardianship service under the Ministry of Justice which had been operational since 2004. The service was responsible for determining the identity of minors and deciding whether they met the necessary conditions to be eligible for legal protection. When in doubt, their age was verified, and an attempt was always made to find out whether someone had parental authority or guardianship. If no one did, a guardian was appointed to represent their interests in the context of procedures regarding their administrative status and their reception on the territory. The guardianship service coordinated contacts with the various authorities competent for asylum and residence permits as well as for reception and lodging. It trained guardians, issued their accreditation and provided continuing training to help them carry out their tasks to the best of their ability. In conjunction with the guardian, the service ensured that the solution found was sustainable and most in keeping with the best interests of the child. In view of the growing scale of the problem, the guardianship service was active around the clock. In the course of the first phase of observation and orientation, unaccompanied foreign minors were sent to specialized centres, which prepared their psychological and social profile in order to pinpoint the most suitable assistance for them when they left the centre. Each child or adolescent was then referred to an appropriate centre as a function of his or her profile. That second stage, which began at the end of 30 days, was followed by a third, during which the minor, with the help of the guardian, tried to find a lasting solution in keeping with his or her interests.

18. With regard to corporal punishment, three bills had been submitted by the opposition to Parliament but had not been examined during the last legislative period. Thus, there was still no text expressly prohibiting corporal punishment, but the question was under consideration in the Ministry of Justice. Marital violence was not an offence, but in cases involving homicide or assault and battery it constituted an aggravating circumstance which entailed a doubling of the prison sentence or the adding of two years to sentences of more than five years. As of 2004, there had been 826 convictions for assault and battery, which in two cases had resulted in death. In the future, it would be much easier to identify such offences, because a circular had required its inclusion under the general heading of "inner-family violence", under which it would be specified whether domestic violence was concerned.

19. Mr. VANDAMME (Belgium) said that the Belgian legal system did not provide for any special procedure for dealing with cases of a cultural nature which, once they were regulated by the same legal instruments as other areas, had no reason to be treated in a discriminatory fashion. The protection of adolescents against violence and pornography was ensured by the federal State in the case of criminal sanctions; where prevention and public awareness campaigns were

concerned, initiatives were taken by the communities, although the Ministry of Justice had quite broad powers to intervene in questions of society which involved behaviour subject to criminal sanctions.

20. As set out in paragraphs 652 to 654 of the third period report, Belgium had three school systems, because the three communities had competence to organize and issue diplomas, which were all recognized as equal by law. The fundamental principle was “freedom of education”, a constitutional right which allowed parents to enrol children in the school of their choice. Each school – Dutch-speaking or French-speaking – taught the language of the other community. In municipalities adjacent to the language border, classes were taught in the majority language of the region.

21. Mr. MAENAUT (Belgium) said that in municipalities with special status (*communes à facilité*), the law allowed for nursery and primary school classes to be taught in the language of the other community. The Ministry of Education of the Flemish Government had taken measures to make schooling, including educational materials, completely free of charge. The measures had entered into force in 2007 for primary schools and were awaiting implementation at secondary school level. Schools were subject to strict regulations and could not apply for additional resources, apart from funding – which was capped – for extracurricular activities. A 2002 decree on equal access to school had radically altered funding for education: schools received additional funding and could increase the size of the teaching staff as a function of the number of children enrolled. Travellers benefited from a point system which enabled them to have additional teachers too. Measures would be introduced to provide for persons with disabilities or special needs and thus promote their integration in the school system so as to arrive at a model that was much more differentiated than was the case today, the current system being governed by an act from 1940 that was based on a segregated model (regular schooling/special schooling). The university system bore the mark of the pan-European process of Bologna. The objective defined at European level was to reduce to less than 10 per cent by 2010 the number of pupils who did not complete primary school and to ensure that 85 per cent of young people 22 years of age obtained a secondary school or university diploma, an objective already nearly attained in Flanders, where the figure had reached 84 per cent. The Flemish Minister for Education, eager to ensure better access to higher education at all levels of society, intended to give impetus to a new wave of democratization like the one which Belgium had experienced in the 1960s.

22. Ms. MONCAREY (Belgium) said that the Walloon region was also following the guidelines of the Bologna process aimed at harmonizing education.

23. Mr. VANDAMME (Belgium) said that, like in most countries, the funding of universities was a problem in Belgium, because tuition fees and public allocations were insufficient to cover all operational costs, and other sources of financing had to be found. Students with little income were eligible for scholarships granted by the communities and a number of private foundations; they only had to bear additional expenses, such as the duplication of lecture notes.

24. Mr. MAENAUT (Belgium) said that two trends had emerged from the OECD reports: the results of Belgian students in mathematics and the natural sciences had been quite good, and there were enormous differences as a function of family make-up, social class, the level of education of the mother etc. Those figures did not make it possible to say which educational system of the three communities produced the best results, but they provided a general idea of

the situation at the current time; many measures were being taken to give priority to achieving equal opportunity in education.

25. Following a survey which had revealed that the school results of children in Flanders were very variable and were closely linked to the sociocultural setting in which children grew up, and in particular to the mother's level of education, the scholarship system had been radically reformed and extended to secondary schools for pupils whose parents did not earn enough to cover their children's school expenses, the aim being to promote equal opportunity in education. As in Walloon, most scholarship recipients were exempt from paying university tuition fees.

26. Discussions were under way at federal level, which had jurisdiction for the question, on lowering the age of the start of compulsory schooling, currently six, in order to promote the early socialization of children from underprivileged backgrounds and increase their chances of success.

27. Mr. VANDAMME (Belgium) said that Belgium had concluded international cooperation agreements with the French-language communities of Louisiana and Quebec, in connection with which teacher exchange programmes had been introduced and initiatives launched to promote French-language culture.

28. Mr. MAENAUT (Belgium) said that the Flemish region had set up educational cooperation projects with Russia and South Africa as well as with the countries of eastern Europe in the framework of the Bologna process.

29. Mr. VANDAMME (Belgium) said that schools taught human rights, and in particular the rights of the child. National public awareness campaigns were also conducted, notably on the occasion of international days introduced by international organizations in support of particular causes.

30. Mr. MAENAUT (Belgium) said that in Flanders, human rights were taught as part of classes on general culture and that public awareness campaigns were conducted in secondary schools on the initiative of the Department of International Affairs, which also supervised the publication of a popular review on the subject.

31. Ms. GALLAND (Belgium) said that universities had also included human rights in their curricula and that judges and lawyers received special training in the area, including on marital rape. Police officers were also made aware of those questions, as were prison personnel, who received training on the question of cultural diversity, racism and xenophobia.

32. Mr. VANDAMME (Belgium) admitted that, owing to the division of the country into language communities, the part of the report under consideration which addressed cultural life seemed to reflect the situation in three different countries. There were in fact three cultural lives in Belgium; their manifestations complemented each other without competing, and everyone had access to entertainment as a function of their cultural preferences and not their linguistic identity. All films were subtitled in French and Flemish, and sometimes in English.

33. Mr. SADI wondered why the State party had not introduced a system of bilingual education, in particular at the level of higher education, so as to facilitate the integration of the country's language communities.

34. Mr. VANDAMME (Belgium) said that all the country's universities taught some of their classes in a language other than that of the language community in which they were located, as well as in English. He was convinced that the universities would eventually have to regroup and organize joint training and seminars and set up a system of equivalencies for their teaching modules.

35. Mr. MAENAUT (Belgium) said that the Bologna process and European integration were such that an increasing number of universities in Flanders offered advanced courses in English, especially since students had many possibilities for exchanges under the Erasmus programme.

36. Mr. OUVRY (Belgium) recalled that the division into language communities had been the result of a political choice by Belgium, which twenty years previously had deliberately opted for the setting up of a federal system; he urged the members of the Committee to bear that consideration in mind when they prepared the concluding observations.

37. The CHAIRPERSON thanked the delegation of Belgium and said that the Committee had completed its consideration of the third periodic report of the State party.

38. The delegation of Belgium withdrew.

The public part of the meeting rose at 11.55 a.m.
