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Combat Poverty, Insecurity and Social
Exclusion Service

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67th Session
5th Periodic Report of Belgium - 2020

Parallel Report of the
Combat Poverty, Insecurity and
Social Exclusion Service

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Combat Poverty, Insecurity and Social Exclusion Service

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1. Presentation of the Combat Poverty, Insecurity and Social Exclusion Service

1. The Combat Poverty, Insecurity and Social Exclusion Service is an autonomously functioning interfederal public institution, created in 1999 by a Cooperation Agreement between the Federal State, the Regions and the Communities concerning the continuation of the Poverty Reduction Policy¹. Its mandate for the protection of human rights is based on the observation that poverty “affects the inherent dignity and the equal and inalienable rights of all human beings” and the common goals that the legislators have fixed for themselves, namely “the restoration of the conditions of human dignity and the exercise of human rights”. The Service has received the explicit mandate to create a biennial “Report on Insecurity, Poverty, Social Exclusion and Unequal Access to Rights; containing an evaluation of the effective exercise of social, economic, cultural, political and civil rights, as well of the inequalities that persist in relation to individuals’ access to rights and also concrete recommendations and proposals to improve the situation” (Article 2 of the Cooperation Agreement).

2. Methodology

2. We appreciate the opportunity to establish this brief presentation to inform the Committee on Economic, Social and Cultural Rights². Our contribution is based principally on the structural dialogue pursued within the Combat Poverty Service with persons living in poverty, their associations and various other actors as well as on the biennial reports that result. It is also based on the reports from the various organisations and institutions obtained by the Combat Poverty Service as part of its fact-finding mission as well as elements originating in its jurisprudence project. Sources are generally identified in endnotes.

3. In terms of structure, our contribution is articulated around the List of Points established by the Committee for the submission of Belgium's sixth periodic report. The responses provided by the Belgian State in its report have been taken into account in order to avoid any repetition. This contribution therefore aims to complement and, where appropriate, nuance this report. We also make a series of recommendations. We hope that this contribution will represent a useful source of information for the Committee and that the recommendations raised below can be addressed during the Session.

3. Response to the List of Points prior to submission

3.1. Points of special interest

3.1.1. Response to paragraph 1: Application of the Pact

4. It is for the courts and tribunals to decide on the direct application of international provisions. The rights established by the Pact are more often evoked in the courts with reference to the ECHR or other national and/or regional provisions rather than to the Pact as such. Nevertheless, Belgium could do more to guarantee the direct application of these rights. It has yet to ratify several provisions of the European Social Charter (revised),³ including article 31 ("*Right to housing*").⁴ For many years the Combat Poverty Service has been recommending that Belgium should ratify article 31,⁵ especially as the European Committee of Social Rights considers in its reports of July 2014⁶ and of September 2019⁷ that there is no obstacle either in law or in practice to its ratification by Belgium.

Recommendation

1. Ratify article 31 of the European Social Charter (revised).

3.1.2. Response to paragraph 2: Right to adequate housing

5. Housing policy is a matter for the Regions. This is why effective intergovernmental cooperation between the different entities is necessary. To this end, on 12 May 2014 the country's various federated entities concluded a Cooperation Agreement on Homelessness.⁸ Among other things, this Agreement states in Chapter IV that the signatories undertake to gather all possible objective data that they will then make available to each other as well as to the Service to Combat Poverty, Precarity and Social Exclusion that will constitute a common collection point. The Homelessness Working Group of the Inter-Ministerial Conference (IMC) for Social Integration - responsible for determining which data should be collected without undermining the autonomy of the various data collection entities - has not met since this Agreement was concluded or at any time during the previous parliament. At the request of its Management Committee, the Combat Poverty Service has set up another intergovernmental working group with the mission of bringing together the elements necessary to effectively fulfil its mission of common collection point. This group met for the first time on 14 October 2019.

Recommendation

2. Render effective the holding of a 'Social Integration' Inter-Ministerial Conference to organise the follow-up of the Cooperation Agreement on Homelessness so as to render effective the mission of the Combat Poverty Service to serve as a common collection point.

2.a. Current housing shortage

6. For many people living in poverty in Belgium the right to decent housing has not been respected.⁹ Firstly, access to home ownership is almost impossible for people on low incomes. This is why it is important to provide measures to assist access to home ownership (for example, *Community Land Trust*). Since 2014 it is the regional authorities that decide what tax benefits to grant for mortgage loans taken out for the purposes of building or buying one's own home. In 2016, Wallonia changed the housing bonus into a "Chèque-Habitat" that offers greater tax benefits for persons on low incomes and also offers a tax credit.¹⁰ In the Brussels-Capital Region the housing bonus was replaced in 2017 by an increase in exemption from registration fees on the first 175 000 euros when buying a home provided that the value of the property does not exceed 500 000 euros.¹¹ Finally, Flanders has decided to abolish the housing bonus and to provide instead a general reduction in registration fees without any corrective measure in favour of persons on low incomes.¹²

7. Many people living in poverty have to turn to social housing. In Belgium, social housing represents a much lower proportion of the total housing stock than in several neighbouring countries. The Belgian percentage is 6.5 %, compared with 34.1% in the Netherlands and 18.7% in France, for example.¹³ In the three regions the supply falls considerably short of demand and waiting lists are growing (in Flanders) or remaining stable but long (Wallonia and Brussels-Capital Region). The Combat Poverty Service publishes a comparison of trends between the regions in terms of the number of households on a waiting list.¹⁴ To help compensate for the lack of social housing some regions make a benefit payment to households on a social housing waiting list. Flanders has introduced a system of *huurpremie*¹⁵ [rental allowance] and the Brussels-Capital Region a system of generalised housing benefit.¹⁶

8. Given the long wait for social housing many persons living in poverty are dependent on the private housing stock. This puts great pressure on the lower levels of the private rental market. For this reason it is also important to foresee measures to improve access for persons living in poverty to this private rental market, in particular through rent controls and instruments relating to the rental guarantee.¹⁷

9. The increase in the housing rented through the Agences Immobilières Sociales [Social housing agencies] represents a positive development but one that remains insufficient given the relatively limited numbers. There are now also significant waiting lists for access to this type of housing.¹⁸

Recommendations

3. Work quickly and as a matter of priority on providing a wider choice of housing of better quality on both the social and private housing markets. Avenues to be pursued to this end include: the building of social housing, support for the functioning of Agences Immobilières Sociales (AIS) and action to combat buildings standing empty in both the private and public sector.

4. Introduce or widen the granting of housing benefit for households awaiting social housing by awarding maximum attention to effective take-up of this benefit.

5. Introduce rent controls for the private rental market on the basis of the quality of the housing.

6. Introduce a central rental guarantee fund.

2.b. Evictions

10. There is no centralised database in Belgium providing systematic, exhaustive and validated data on evictions. The data are often incomplete, not always encoded and vary depending on the practices of the administrations. The absence of official statistics contributes to the invisibility of this phenomenon.¹⁹ There is also the problem of illegal evictions that is also under-documented.²⁰

11. A distinction must also be made between evictions for non-payment of rent and evictions for failing to keep the accommodation clean. In the former case, there is an obligation to inform the CPAS [social assistance centre] in the municipality in question of the possible eviction so that it can support the household in their efforts to be rehoused. There is no obligation to inform the CPAS in the latter case. On the other hand, the mayor of the municipality and, in Wallonia and the Brussels-Capital Region, the regional housing companies, are under an obligation to rehouse the household. However, as this obligation concerns the means rather than the outcome, it often remains a dead letter.

Recommendations

7. Organise in the three Regions a systematic and uniform registration of judicial, administrative and illegal evictions.

8. Ensure that there are no evictions in the case of the accommodation being declared uninhabitable (unless there is an imminent risk to health and/or safety) without the tenant being provided with better housing.

9. Alert the CPAS systematically and sufficiently early in the event of a procedure for the uninhabitability or unsuitability of housing.

10. Inform the police of the need to draw up a report in situations of "illegal" eviction and better inform tenants of their rights.

11. Render financially responsible landlords who effect "illegal evictions" by charging them for the costs of rehousing their tenants. .

2.c. Energy

12. The DESC Committee has stated on several occasions that access to electricity is an intrinsic part of decent housing.²¹ The right to energy is not stated explicitly in the Belgian Constitution.

13. The energy bill has a major impact on household budgets, especially for those on low incomes. Between 2007, the year of complete liberalisation of the energy market, and 2018, the average cost of electricity per household in Belgium (consuming 3 500 kWh a year) increased by 61.59 %.²² The social tariff for gas and electricity is a particularly important instrument in preventing payment problems but it needs to be applied more widely across a larger group of entitled persons. Thanks to the resources of the Gas and Electricity Fund, the CPAS can intervene in cases of energy precarity but the resources allocated to this fund are at present insufficient to provide sufficient support in case of energy problems.²³

14. In Flanders and Wallonia payment difficulties can cause a budget meter to be installed. In Flanders, at the end of 2018 there were 41 042 such meters active for the supply of electricity and 27 686 for gas. In Wallonia there were 70 368 budget meters for electricity and 31,933 for gas. The installation of a budget meter for electricity raises questions as it does not always include a minimum supply. This was the case in 2018 for 22% of budget meters in Flanders, or 9 265 meters. This was also the case for the vast majority of budget meters in Wallonia as the minimum supply is only for households with

protected client status. For technical reasons the budget meter for gas is unable to offer a minimum supply. These budget meters for electricity and for gas without a minimum supply are in fact "auto-cut off" meters as if the client does not have the money to recharge them their gas or electricity supply is effectively cut off.

15. In 2007 the energy sector was privatised. Consumers can now compare a number of energy suppliers and switch supplier. This 'market', on which several actors (distribution network suppliers and managers) are present together with a wide range of price offers, has complicated matters for the consumer. For many people the tools for comparing supplier prices, to give just one example, are not accessible. Policy - a fortiori at European level - that constantly highlights the 'aware consumer', fails to take into account the additional obstacles for persons living in poverty. In addition, the strength of the suppliers in the face of the vulnerable consumers sometimes poses a problem.²⁴

Recommendations

12. Include the right to energy in the Constitution as a part of the right to decent housing.

13. Introduce a guaranteed minimum energy supply and this systematically when budget meters are installed.

14. Strengthen the position of consumers in a vulnerable socio-economic situation in their relations with energy suppliers, in particular through solid regulations and support for organisations in the field able to inform and accompany them

15. Take measures to increase the take-up of financial assistance (social gas and electricity rates, Fuel Oil Social Fund, Gas and Electricity Fund, minimum gas supply), in particular by providing clear information, taking proactive initiatives and analysing the conditions and procedures for granting assistance.

2.c. Water

16. To date, the right to water and sanitation has not been explicitly laid down in the Belgian Constitution.

17. In the past decade water bills have increased significantly in all the regions. In Flanders the overall water bill increased by 103% between 2005 and 2017. During the same period it increased by 83% in Wallonia and by 56% in Brussels. By way of comparison, the increase in the health index – the reference for adapting wages and social benefits – was just 24% during the same period.²⁵ The water bill for households on the lowest incomes weighs particularly heavily on their budget. As a result, the lowest income categories are also those that have seen their water bill increase proportionately the most in recent years.²⁶

18. As regards cutting off the water supply,²⁷ the Walloon authorities – and Flemish authorities from 1st January 2020 – have made arrangements for a water flow rate limiter to be installed in the event of payment difficulties. This water flow limiter limits the supply and use of water to a certain flow rate that is equivalent to 50 litres an hour. The authorities justify the installing of a flow rate limiter by arguing that this avoids cutting off the water supply, limits consumption and reduces the water bill. In the Walloon Region and in Flanders its introduction met with a lot of criticism.²⁸ The water flow rate limiter does not operate in terms of a precise minimum water supply but rather a minimum flow rate. This causes problems for households in their day-to-day water supply and thus in practice amounts to cutting off the supply. The minimum flow rate also fails to take household composition into account. The flow rate limiter is therefore particularly problematic in terms of the right to water and sanitation.

19. Special attention needs to be paid to homeless persons for whom access to water and sanitation facilities is very difficult. There are some drinking water fountains and public toilets in Brussels. In other towns and in the countryside such infrastructures are often absent.

20. The Flemish Region introduced a social tariff under a previous parliament. This has meant that certain groups benefit from an 80% reduction in their water bill which is granted automatically. In the Walloon and Brussels-Capital Regions there is a Social Fund that can be used by the CPAS to intervene in water bills as well as to carry out small technical repairs.

Recommendations

16. Include the right to water and sanitation in the Constitution.

17. Provide drinking water fountains and public toilets (accessible 24h/24h in towns and villages) to ensure universal access to water and sanitation.

18. Ensure a guaranteed minimum water supply that makes it possible to live in dignity while taking household composition into account. Assess the introduction and use of a flow rate limiter in the Walloon Region and Flemish Region in terms of human dignity by involving persons living in poverty, their associations and the various actors.

19. Provide a social tariff for water, combined with a social fund for water.

2.e. National strategy for access to housing

21. France and Scotland have adopted mechanisms designed to render the right to housing enforceable: persons who are unable to exercise their right to housing can have recourse to a judge to force the administration to find them housing.²⁹ These examples are not perfect but they have served to reveal structural malfunctionings in housing policy and to analyse more pertinently the housing situation through systematic monitoring. They also triggered a real change in attitudes based on the rights of the person living in poverty.³⁰ The adoption of such legislation by the country's three regions is something to be encouraged and was the subject of a favourable opinion on the part of the Flemish Housing Council.³¹

Recommendation

20. Study the implementation in the three regions of mechanisms designed to render the right to housing as it exists in other countries also enforceable in Belgium.

3.2. Pact Implementation

3.2.1. Response to paragraph 4: National Human Rights Institute

22. On this point, we refer you to the parallel report of Unia and Myria that indicates the situation concerning the NHRI: from 2018 onwards, Unia has been recognized as a NHRI type B. Unfortunately, the conclusion of a partnership agreement between the Federal State and the federated entities for the establishment of a Type A NHRI is not up for discussion. On 1 July 2019, the Federal Law establishing a Federal Institute for the Protection and Promotion of Human Rights entered into force.³²

The preamble to the bill setting up a Federal Institute for the Protection and Promotion of Human Rights also mentions the Combat Poverty Service and its competence in the field of policy on social exclusion and combating poverty, in the framework of the economic, social and cultural rights established by the European Social Charter (revised) of 1996 of the Council of Europe and the International Covenant on Social, Economic and Cultural Rights. Even though Unia, Myria and the Combat Poverty Service welcome the creation of this Institute, it must be noted that, since its competence is limited to federal matters, a unique and transversal approach to human rights will not be possible.

23. In the meantime, the effectiveness and equal enjoyment of the rights deriving from the Covenant for persons residing in Belgium are ensured through human rights organizations that have a partial mandate, a partial geographical competence or a relative independence. These institutions meet every month on their own accord and autonomously within the Human Rights Platform of which our institution is member.³³ The methods of concertation between the new Institute and these Belgian sectoral human rights organizations still needs to be clarified.

Recommendation

21. Conclude a partnership agreement between the federal state and the federated entities in order to create a national human rights institution with territorial jurisdiction over the whole of Belgium and material jurisdiction covering all levels of power. Guarantee the independence of this new institution, among other things by providing it with sufficient financial resources.

3.2.3. Response to paragraph 8: Climate change

24. Both climate change and environmental policy measures have an impact on the effectiveness of economic, social and cultural rights. An impact that is greater for persons living in poverty than for other sectors of the population. The poor also benefit less from measures to encourage ecological behaviour and a sustainable lifestyle.³⁴ Climate policy also weighs more heavily overall on those on low incomes.

25. By way of example, the current policy of creating low emission zones in towns raises many questions. This policy works to the disadvantage of persons in a precarious socio-economic situation who are unable to buy a car that meets the latest environmental standards. In the absence of compensatory, support or transitional measures, their mobility to and in towns as well as their access to basic services are seriously limited. Despite this, the creation of low emission zones in Brussels was validated by the Constitutional Court.³⁵ The Court considered that the Brussels-Capital Region respected the principle of proportionality between, on one hand, the aim of the measure – to improve air quality for all the Region's inhabitants – and, on the other hand, the ban on using old diesel vehicles. The Court considered that the progressive introduction of the ban, coupled with periods of transition and tolerance, as well as support measures for private individuals and companies, were examples of acceptable compensatory measures. In practice, however, these measures appear to be very limited and apply only to a very specific group. The question is to know, when compensatory, support or transitional measures are effectively taken, whether they are appropriate and sufficiently accessible to reduce the greater impact of low emission zones on low income groups.

26. A number of governments have introduced measures in recent years to support energy savings, such as premiums that can be applied for after carrying out insulation works. This supposes prefinancing, however, which can be a major problem for persons on low incomes and is one of the reasons for failure to take up this option. In Flanders about 97% of energy premiums paid to households go to non-vulnerable groups.³⁶ Vulnerable groups, on the other hand, often live in poorly

insulated rented housing in the public or private sector. Renovating the social and private housing stock is a measure that contributes both to climate policy and to combating poverty.

Recommendation

22. Assess the impact of climate measures (such as introducing low emission zones) on the economic, social and cultural situation of persons living in poverty, *ex ante* and *ex post*, with the participation of these persons and the various stakeholders.

3.2.4. Response to paragraph 9: Sustainable Development Goals

27. Climate and poverty reduction policies both require cooperation and coordination between the different sectors and government authorities. These links – and the need to work outside the respective fields of competence – have been stressed on more than one occasion in recent years. In its latest report the Federal Plan Bureau recommends strong intergovernmental cooperation for sustainable development if Belgium is to achieve its SDGs. But the Federal Plan Bureau also points out that intergovernmental cooperation within the Interministerial Sustainable Development Conference has been at a virtual standstill since the end of 2017. The assessment of national sustainable development strategy scheduled for the beginning of 2019 did not take place. At present a technical group on sustainable public contracts is the only one functioning.³⁷ The Cooperation Agreement on Continued Policy to Combat Poverty commits the Federal State, the Communities and the Regions to coordinate their policy.³⁸ This Cooperation Agreement foresees the holding of an Interministerial Conference on Social Integration to guarantee cooperation between the different governments. However, the commitment to meet at least twice a year has not been respected in recent years. During the previous parliament the Interministerial Conference met just once.

28. Political measures – including those concerning sustainability – can have an impact on situations of poverty. This is why it is important to analyse the effect of any measures before adopting them.³⁹ At the various levels of power, governments have developed and implemented a number of *ex ante* tools of analysis: regulatory impact assessment at federal level, poverty test in Flanders, equal opportunities test in Brussels, as well as initiatives at local level. The Combat Poverty Service has set up an intergovernmental working group around this policy instrument and is calling for a strengthening and increased implementation of *ex ante* instruments of analysis.⁴⁰ Also, a number of concerns in connection with the *ex ante* analysis are closely linked to the recommendations for sustainable development, in particular: an approach to poverty in terms of human rights, integration of a transversal and intergovernmental perspective based on a diversity of knowledge, the importance of the public and political debate, etc. The participation of persons living in poverty and their associations, as well as the other stakeholders, is essential for developing and evaluating policy. The recommendations and advice of existing advisors, structures and organisations must be used in the first instance to this effect.

29. Good governance is closely linked to the question of the effectiveness of rights. Environmental policy is often based on averages when in fact policy should consider the most vulnerable (children, the elderly, persons living in poverty, etc.) as the norm when testing effectiveness. When a policy is beneficial for these groups it is beneficial for all. Good governance means concern with the well-being of all and not leaving anyone behind.

Recommendations

23. Render effective the holding of an Interministerial Conference on 'Social Integration' and 'Sustainable Development' further to the 'Sustainability and Poverty' 2018-2019 biannual report of the Combat Poverty Service so that the various authorities can together adopt measures designed to ensure a fair climate policy and a policy to combat lasting poverty.

24. Provide systematically an *ex ante* and *ex post* assessment of political action in terms of potential impact on poverty.

3.2.7. Response to paragraph 16: Right to social security (1)**Degressive unemployment benefit and limitation of the integration allowance**

30. The November 2012 reform of unemployment benefit made the payments increasingly degressive and extended this to the unemployed who are heads of households for whom the benefits constitute the sole source of income within the household.⁴¹ In 2018, 57.8 % of the fully unemployed who were 'head of household' and 48.2 % of the unemployed classed as 'single' received benefit at a percentage lower than they would have received in theory under the former system.⁴² The variation in the amount of benefit paid makes it impossible to budget, even in the short term; the increased degressivity increases the difficulties in paying rent and for health care (postponement of care) as well the risk of getting into debt.⁴³ The family of an unemployed person is also affected, and the children in particular.⁴⁴ Recent research shows that social protection is becoming less effective for children.⁴⁵ Deteriorating living conditions in turn adds to the difficulty of entering the labour market. In particular it brings added difficulties in meeting the costs of actively looking for a job.

31. The status of cohabitant, introduced in the 1980s, is particularly unfavourable and women are over-represented in the 'cohabitants' category.⁴⁶ The benefits paid are also degressive at a faster rate than before for cohabitants during the second period of compensation.⁴⁷ More generally, the amount of certain unemployment benefits is below the poverty risk threshold, in particular the cohabitant rate.⁴⁸ Finally, despite the many scientific studies on the subject,⁴⁹ the Federal Government has not yet taken this degressivity into account when looking at precariousness and effective access to the labour market.

32. The application of the time limit for integration allowances resulted in the automatic exclusion of 37 007 persons between 1 January 2015 and 31 December 2016.⁵⁰ This automaticity did not enable them to anticipate the consequences of this exclusion for their circumstances and was met with incomprehension. As a result, these persons had to turn to the social assistance system in which the amounts received are all below the poverty risk threshold. Research also shows that exclusion from unemployment benefit tends to provoke a distancing from the labour market on the part of the excluded person.⁵¹

Recommendations

25. Take account of evaluations of a degressive system of unemployment benefit over time in regard to precarity and effective access to the labour market. Award priority to improving access to decent jobs.

26. Guarantee each household an income that makes it possible to live with dignity by increasing all income replacement benefits.

27. Increase the amount of income replacement benefits for cohabitants, taking into account real economies of scale.

3.2.8. Response to paragraph 17: Right to social security (2)

Professional secrecy

33. The law of 17 May 2017 amending the Code of Criminal Instruction with a view to promoting the fight against terrorism⁵² has sparked great controversy in the field.⁵³ Additional restrictions on professional secrecy serves no purpose as other laws already allow for exceptions to professional secrecy, the protection of private life will come under pressure, legal uncertainty will increase, and professional confidentiality risks being eroded both for social workers and other professionals such as doctors and lawyers.

34. Although the Constitutional Court cancelled the active obligation for the CPAS to provide information,⁵⁴ the 2017 law places even more pressure on the already fragile relationship of trust between professionals and users. (Potential) beneficiaries are considered increasingly as simple users who have to fulfil all kinds of conditions, provide justifications, and submit to checks.

Recommendations

28. Check every data exchange in regard to the specific objectives and check the degree to which these exchanges are proportional to these objectives.

29. Ensure that professional secrecy is guaranteed, on the basis of continuous dialogue with users and professionals, as the basis for a relationship of trust.

3.2.9. Response to paragraph 19: Right to social security (3)

Social assistance

35. Overall, we must conclude that the benefits paid under the system of social assistance are below the poverty risk threshold. This is particularly true for persons who are cohabiting.⁵⁵ The big difference in revenue between the rates for a 'couple', 'single person' and 'cohabitant' is due to an over-estimation of the economies of scale realised by cohabitation. In its present form, the cohabitant rate prevents people living in poverty from living as a family, expressing solidarity with friends or living in shared accommodation with co-tenants to reduce housing costs.

36. Since 1st November 2016, the Individualised Plan for Social Integration (PIIS) has been obligatory for all new beneficiaries of an integration allowance (that is, those who have not received any integration allowance during the previous three months), whereas previously this had only been compulsory for young people aged under 25.⁵⁶ The PIIS, laid down in a contract between the integration allowance beneficiary and the CPAS, is an instrument designed to actively accompany the person in question on the path to independence, autonomy, social integration and if possible professional integration. This imposes an additional condition that sometimes leads to the exclusion of certain beneficiaries from entitlement to the integration allowance. The law also provided for the possibility of introducing a community service in the framework of the PIIS. After various organisations appealed to the Constitutional Court this provision was repealed on the grounds that it constituted an example of the Federal State exceeding its powers.⁵⁷

Recommendations

30. Guarantee for all households an income that makes it possible to live in dignity while sharply increasing all social assistance benefits.

31. Increase the amount of social assistance benefits for cohabitants, given the real economies of scale.

3.2.9. Response to paragraph 21: Poverty

37. In its latest monitoring in the framework of the National Reform Programme, the Social Security FPS concluded that the goals set in recent years for combating poverty had not been met. The Europe 2020 objective had sought to reduce the number of people living in poverty and social exclusion in Belgium by 380,000 units by 2020. A group that has in fact remained almost stable since the Europe 2020 strategy was launched (2 250 000 persons in 2018 compared with 2 194 000 in 2008). The number of persons exposed to a risk of poverty is today higher than at the time when systematic monitoring was introduced (16.4% in 2018 compared to 14.8% in 2005).⁵⁸ The evaluation report of the Third Federal Plan Against Poverty 2016-2019⁵⁹ also found that policy - at federal and other levels- is not effective or sufficient to reduce poverty.

38. Leave no one behind – the central message of the United Nations Agenda 2030 – means that the fight against poverty must be at the heart of sustainability policy. An ambitious policy on sustainability and on combating poverty requires strong cooperation, not only in the field but also and above all between the political actors at all levels of power.⁶⁰ When drawing up the various plans to combat poverty it is important to involve persons living in poverty and their associations, as well as the various actors, and to optimise the existing material and instruments (such as the biennial reports by the Service to Combat Poverty).⁶¹

39. Most benefits are at a level below the poverty risk threshold.⁶² Any increases in minimum social benefits of recent years have failed to reduce the gap separating them from the poverty risk threshold. We draw particular attention to the status of cohabitant which implies that benefits decrease or are lost altogether when someone decides to live with their partner, accommodate a friend or family member, or decides to cohabit to share the costs of accommodation. The different levels of government can take measures in relation to this issue.⁶³

40. The non-take-up of rights is a problem that cannot be stressed too much. Governments must come up with a policy that guarantees the effectiveness of rights, thus a policy to combat the non-take-up of rights. One way forward would be the automatic granting of rights. It is important to move step-by-step towards an automatic granting of rights, a proactive approach to potential beneficiaries, an automatic updating of the situation of beneficiaries and a simplification of the administrative procedures. We would like to stress the need to simplify the legislation as with complex legislation the automatic application of rights is clearly more difficult. Rendering a right conditional also has a direct impact on the possibilities for its automatic application.⁶⁴

Recommendations

32. Develop an ambitious policy to combat poverty, in association with and complementary to a sustainability policy. Involve persons living in poverty and their associations as well as the various stakeholders and optimise existing instruments when drawing up policy.

33. Increase benefits to guarantee a decent income. Take measures regarding the status of cohabitant.

34. Continue to work on options for rendering rights automatic and at the various levels (fully automatic, identification or possible beneficiaries, automatic updating of situation of person in question, administrative simplification).

3.2.10. Response to paragraph 22: Right to food

41. Statistics on food security provide additional information on the extent and scale of poverty. The risk of poverty or social exclusion in Belgium has remained relatively stable in recent years. The EU2020 objective has not been achieved at all. At the same time we note an increase in the number of persons having recourse to a food bank.

42. Although at present food aid is a kind of emergency aid essential for more than 300 000 persons, those living in poverty and the various actors involved in combating poverty stress the limits of aid of this kind.⁶⁵ Dependency on food aid not only carries a stigma and can even be humiliating - as it is often subject to increasing conditions and therefore checks - but also limits freedom of choice and autonomy. While food aid can be a means of reaching and assisting vulnerable groups and of reducing food waste – in the context of the debate on sustainability -, it cannot be regarded as a structural measure in combating poverty.⁶⁶

Recommendation

35. Guarantee the right to freedom of choice for quality food for all and ensure a decent income by increasing minimum benefits.

3.2.11. Response to paragraph 25: Right to physical and mental health

43. In Belgium, compulsory health insurance is virtually universal and covers 99% of the population. Despite this, cost remains one of the principal obstacles to access to care for persons living in poverty.⁶⁷ Corrective measures exist, such as the system of third-party payment (social) and Increased Intervention (II) but the non-take-up problem remains. A draft royal decree designed to perpetuate the proactive flow for recourse to the II is currently being drawn up. Another positive development is that the Constitutional Court is maintaining the ban on the payment of a fee supplement for patients hospitalised in a room with two or more beds.⁶⁸

44. Medicines, dental treatment, mental health care and other services are insufficiently covered by compulsory health insurance. Also, some persons are excluded from the ordinary healthcare system because their compulsory health insurance is not in order and others because they are illegally present in the country. Access to and relations with healthcare providers and hospitals also pose a problem for persons living in poverty. For example, certain hospitals check that a patient is able to pay for care before providing treatment. On the other hand, many patients living in poverty report good experiences in regard to medical homes (local based, accessible, comprehensive and multidisciplinary care, all-in fees, curative and preventive care). At the beginning of 2011, following an independent audit, the minister responsible lifted the ban on creating new centres.

45. Certain trends seem to be further complicating access to healthcare. Privatisation risks creating a two-speed health system depending on whether or not a patient has hospitalisation insurance. Digitalisation – doctors' appointments made exclusively online, digital patient files, electronic communication between mutual health insurance organisations and their members, etc. – also risks excluding persons with insufficient digital skills. The reorganisation of the healthcare sector is bringing

increased disinstitutionalisation that ignores the fact that not everybody can travel easily, has an extensive and solid social network or lives in circumstances that favour recovery.

Recommendations

- 36.** Increase the coverage and extent of compulsory health insurance.
- 37.** Increase recourse to social corrections, in particular by perpetuating the proactive flow for benefitting from the Increased Intervention.
- 38.** Sufficiently expand the supply of medical houses while ensuring good geographical distribution, in the town and countryside.

3.2.12. Response to paragraph 26: Right to education

46. A deep divide continues to separate the world of families living in poverty and the values and standards of school. The promotion of a genuine partnership between schools and families living in poverty is an essential element of an equal opportunities policy in education.⁶⁹ The concept of the open school is interesting in this respect as anchoring a school in the life of a neighbourhood and during free time can increase the chances of academic success for all children.⁷⁰

47. The system of study advice and orientation in Belgium remains a vector for social inequalities. The 'cascade'⁷¹ orientation model, based on the school results of the child and not on his or her interests or abilities, places children in the weakest socioeconomic category in the least valued sections of the school system (vocational and technical education).⁷² The Unia diversity barometer stresses the same phenomenon regarding special education: pupils from less favoured families are considerably over-represented in this section.⁷³ Downgrading to vocational, technical or special education has a real impact on the child's future, the choice of higher education studies and integration into the labour market.⁷⁴

Recommendations

- 39.** Provide training in diversity and poverty management for teachers to equip them to recognise the specificity of pupils living in poverty and their family.
- 40.** Create links between the school and its environment (libraries, neighbourhood associations, etc.) by integrating schools to a maximum in local life, both physically and in regard to contacts with the various partners. Award a specific role to pupils, parents and teachers in these initiatives.
- 41.** Continue the fight against school downgrading by offering pupils study orientations that respect their individual project. Give more value to technical and vocational education.

3.2.13. Response to paragraph 28: Good practices

48. A certain caution is needed when determining good practices. It is important to ask yourself certain questions. What determines whether a practice can be considered 'good'? And for who? On the basis of what criteria? Are persons living in poverty involved in drawing up and implementing this practice? Does it respect or does it limit the freedom of choice and autonomy of persons? Does this practice really offer prospects for the future or does it serve to enable people to survive in a degrading situation?

49. It is important to involve persons living in poverty as much as possible from the very start of drawing up public policy and practices. Not only does that increase the chances of these practices effectively meeting the needs and expectations of the persons concerned but it also reduces the risk of undesirable consequences and negative effects. In Belgium, the Combat Poverty Service was set up by the various authorities and parliaments to assess the effectiveness of human rights in situations of poverty. The Service fulfils this mission by engaging in dialogue with persons living in poverty and various other actors. The Service is cited by the ENNHRI for its approach based on human rights and participation.⁷⁵ It was also recognised as an SDG Voice 2020.⁷⁶ It is in this way and through other means of consultation and dialogue – involving persons living in poverty, associations and other stakeholders – that the real impact of measures on people living in poverty can be evaluated.

4. Additional elements: access to rights

50. For persons living in poverty it is important for the rights guaranteed by this Pact to be effective and accessible. The non-effectiveness of rights is a reality on a scale that is bigger than is generally believed and that affects people living in poverty in particular. The causes of this non-effectiveness are many.⁷⁷

51. When a right is not granted by the responsible administration or organisation, or when it is violated, all citizens are entitled to legal recourse to obtain or request redress. Access to justice is therefore a fundamental instrument in access to rights. In recent years access to justice has become more difficult, especially for persons living in poverty.⁷⁸ In general, legal costs (increase in hearing fees, DPA-Deposit) have increased considerably following the adoption of various laws and regulations.⁷⁹ The reasoning behind these changes to the law was that it was too easy to have legal recourse. The government wanted to encourage a greater sense of responsibility among potential litigants. This idea does not seem to be based on any research and fails to take into account the non-access to rights as set out above.

52. For persons living in poverty in particular, access to justice has been made more difficult following the reform of the system of legal aid. Before the modification of the law,⁸⁰ there was an irrefutable presumption for certain categories of beneficiary (e.g. persons receiving integration allowance or an income replacement benefit). As a result, they benefitted automatically from second line legal assistance. Following the reform this presumption has become refutable, this bringing additional checks and conditions as well as an increased administrative burden, both for the plaintiff and the lawyer. This measure (checks on livelihood for persons whose status supposes a low income) is contrary to the often repeated desire of the various authorities to move as much as possible towards the automatic granting of rights.

53. An additional problem is posed for cohabitants who are not members of the same household but who are registered at the same address.⁸¹ To assess the right to second line legal assistance, the livelihoods of all persons registered at the same address are taken into account and added together, even if they are simply flatmates. Cohabitants can therefore be excluded in full or in part from second line legal assistance despite having very low financial means.

54. We must also conclude that the income thresholds for access to second line legal assistance are below the poverty risk threshold, a threshold nevertheless used by the Belgian State in its reporting in the framework of the EU 2020 European strategy. Finally, the law as amended initially included the provision that all beneficiaries of second line legal assistance should have to pay two fixed sum contributions.⁸² This provision was cancelled by the Constitutional Court as it constituted a violation of the standstill principle: it amounted to a significant reduction in the protection of the right to legal aid that was not justified by a reason of general interest.⁸³

55. Regarding the importance of access to justice, we also refer you to the Unia and Myria submission as well as those of the Justice for All Platform to the Committee.

Recommendations

42. Pursue a policy designed to render effective the exercising of rights by establishing for each level of competence a plan to combat non-recourse to rights (e.g.: proactive initiatives, simplification of procedures, automatic granting of rights, etc.).

43. Evaluate access to justice for persons living in poverty, in particular access to second line legal assistance, by including in the evaluation the actors concerned, including delegates of associations within which these poor persons come together, so as to bring the necessary changes. In particular, there is a need to look at the financial obstacles as well as those linked to procedures and administrative formalities.

44. Simplify procedures: reintroduce the irrefutable presumption of lack of resources in obtaining second line legal assistance and render automatic free legal aid when the second line legal assistance is granted.

45. Give the courts the means to exercise their role as guarantor of effective rights.

5. Endnotes

- ¹ [Cooperation Agreement between the Federal State, the Communities, and the Regions concerning the continuation of the Poverty Reduction Policy](#), *Belgian Official Gazette*, 10 July 1999.
- ² Correction made by the Combat Poverty Service. In the French version of the parallel report that was submitted in the context of the 5th Periodic Report of Belgium, reference was made to the Human Rights Committee (HRC). However, it is the Committee on Economic, Social and Cultural Rights which monitors the implementation of the International Covenant on Economic, Social and Cultural Rights.
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- ⁵ Combat Poverty, Insecurity and Social Exclusion Service (2017). [Citoyenneté et pauvreté. Contribution au débat et à l'action politiques. Rapport bisannuel 2016-2017](#), Brussels, Combat Poverty, Insecurity and Social Exclusion Service, p. 119 ; Combat Poverty, Insecurity and Social Exclusion Service (2013). [Mémoire Logement](#), Brussels, Combat Poverty, Insecurity and Social Exclusion, p. 4.
- ⁶ European Committee of Social Rights (2014). [Second report on non-accepted provisions of the European Social Charter by Belgium](#).
- ⁷ European Committee of Social Rights (2019). [Third report on non-accepted provisions of the European Social Charter by Belgium](#).
- ⁸ [Accord de coopération du 12 mai 2014 sur le sans-abrisme et l'absence de chez soi](#), *Belgian Official Gazette*, 10 November 2018.
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- ¹⁰ Décret du 20 juillet 2016 relatif à l'octroi d'un avantage fiscal pour l'acquisition de l'habitation propre : le Chèque Habitat, *Belgian Official Gazette*, 10 August 2016.
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- ¹³ OECD, [Affordable housing database](#)
- ¹⁴ Combat Poverty, Insecurity and Social Exclusion Service [faits et chiffres section](#), file : How much social housing is there in Belgium and how many people are on a waiting list??
- ¹⁵ Besluit van 4 mei 2012 van de Vlaamse Regering tot instelling van een tegemoetkoming voor kandidaat-huurders, *Belgian Official Gazette*, 25 May 2012.
- ¹⁶ Arrêté du 23 mai 2019 du Gouvernement de la Région de Bruxelles-Capitale portant exécution de l'ordonnance du 21 décembre 2018 visant à établir une allocation de logement en Région de Bruxelles-Capitale, *Belgian Official Gazette*, 20 June 2019.
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- ²⁰ Combat Poverty, Insecurity and Social Exclusion Service (2017). Citoyenneté et pauvreté. Contribution au débat et à l'action politiques. Rapport bisannuel 2016-2017, Brussels, Combat Poverty, Insecurity and Social Exclusion Service, p. 112-114.
- ²¹ In its general comment No. 4, the Committee argues that certain elements inherent to the right to housing must be respected in all circumstances, including the availability of services, materials, facilities and infrastructure that provide access to natural and common resources such as safe drinking water, energy for cooking, heating and lighting, sanitation and washing facilities. United Nations Committee on Economic, Social and Cultural Rights (1992). General Comment No. 4: The Right to Adequate Housing (Art. 11 (1) of the Covenant), E/1992/23.
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- of Women and Men, the Ombudsman of the German-speaking Community, the Ombudsman of the Walloon Region and the Walloon-Brussels Federation, the Commissioner for the Rights of the Child, the General Delegate for the Rights of the Child, the National Commission on the Rights of the Child, the Service to Combat Poverty, Insecurity and Social Exclusion, the 'R Committee', the 'P Committee', the High Council of Justice and the Central Prison Surveillance Council.
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- ⁵³ Combat Poverty, Insecurity and Social Exclusion Service (2017). *Citoyenneté et pauvreté. Contribution au débat et à l'action politiques. Rapport bisannuel 2016-2017*, Brussels, Combat Poverty, Insecurity and Social Exclusion Service.
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Steunpunt tot bestrijding van armoede,
bestaansonzekerheid en sociale uitsluiting

Service de lutte contre la pauvreté,
la précarité et l'exclusion sociale

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