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Committee on Economic, Social and Cultural Rights

Information received from Belgium on follow-up to the concluding observations on its fifth periodic report*

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* The present document is being issued without formal editing.



1. In the context of its concluding observations on the fifth periodic report of Belgium, the Committee requested Belgium to provide information on the implementation of three of its recommendations.
2. Belgium has the honour of submitting the following responses.

Follow-up information relating to paragraph 31 of the concluding observations (E/C.12/BEL/CO/5)

3. Belgium ratified the International Labour Organization Domestic Workers Convention, 2011 (No. 189) through the Act of 29 January 2014. Under Belgian law, there is no legal provision defining “domestic work”. Only the notion of “domestic worker” is defined under article 5 of the Act of 3 July 1978 on employment contracts. This article defines a domestic worker as a person who undertakes to perform, for remuneration and under the authority of an employer, mainly manual household work as required by the employer or his or her family. Chapter V of the Act of 3 July 1978 contains special provisions that apply to domestic employment contracts.

4. The scope of application adopted by Convention No. 189 is thus broader than that laid down in Belgian legislation for domestic employment contracts. Under the Act of 3 July 1978, domestic workers do not include household employees who do not perform manual household tasks, such as chauffeurs, nannies, gardeners or care workers. Furthermore, a large proportion of domestic work is carried out through the service voucher system by workers who are also not classified as domestic workers under Belgian legislation. To combat undeclared work in the domestic economy, the Belgian legislature created the service voucher system in 2004. Under this system, the employer is an approved company, and the customer, or user, is the family using the domestic assistant’s services. Customers register and order service vouchers, which enable them to have household tasks carried out at a reduced rate. Domestic assistants working under the service voucher system sign a written employment contract with an approved company. This guarantees them a minimum wage and social protection. Both Belgian and foreign workers can be hired under service voucher employment contracts; the latter must, however, be in possession of valid residence and work permits, where applicable.

5. It is generally accepted that the service voucher system has made it possible to formalize a large part of the domestic work economy. This development has enabled better monitoring of working conditions and the granting of social rights to a certain category of domestic staff. However, this system covers only a fraction of the domestic work sector as a whole. In addition to workers employed under the service voucher scheme, there are domestic workers who are not covered by the scheme, such as diplomatic household staff and full-time domestic employees, who may also live at their employer’s home.

6. The social and economic added value of the service voucher system is widely recognized by numerous academic studies, including those carried out by IDEA Consult and Improving Measurement of Public Support to Personal and Household Services (IMPact PHS), a project of the European Union. The European Commission has also repeatedly cited the Belgian service voucher system as an example of best practice.

7. According to Belgian regulations, all workers who carry out household work that does not fall under the Belgian definition of domestic work are bound by a contract of employment as a manual or white-collar worker, as applicable. These employees therefore enjoy the same protection as other workers. Workers who fall under the Belgian definition of domestic work are subject to a special guaranteed salary system in the event of illness, which is less favourable than the system for other workers. Workers under domestic employment contracts are also excluded from the working hours provisions of the Act of 16 March 1971 on labour. However, the Collective Labour Agreement of 3 June 2004, concluded within the joint commission for building management and domestic workers and made mandatory by the Royal Decree of 23 September 2005, stipulates that these workers must not work more than 38 hours per week. Domestic workers are also entitled to Sunday as a day of rest. The Royal Decree of 3 March 1965 allows them to work on one out of every four consecutive Sundays;

when they do so, they must be given a compensatory rest period within the following six days.

8. In all other respects, workers under domestic employment contracts are covered by the provisions of employment law in the same way as all other domestic workers and fall under the general scope of social security legislation, without distinction.

9. Belgium has set up a special prevention system to deal with the exploitation of domestic workers by diplomats who enjoy immunity from jurisdiction. Under the Vienna Conventions, diplomatic staff and their families enjoy full immunity from criminal, civil and administrative jurisdiction: their homes cannot be searched unless their immunity is waived. This immunity considerably complicates the fight against abuse and economic exploitation of domestic workers by diplomats, as demonstrated by several specific cases in which domestic workers have been exploited by diplomats with immunity from jurisdiction. Under Belgian law, diplomats must apply to the Protocol Department of the Federal Public Service for Foreign Affairs, via their diplomatic mission, consular post or recognized international organization, for authorization to hire domestic staff. The Protocol Department then decides whether the person can be hired. According to the regulations, the employer must ensure that the employee receives a copy of the contract in a language he or she understands.

10. The Protocol Department also processes visa applications for domestic staff. Once the worker has arrived in Belgium, the employer must apply for a special identity card for his or her household staff. This is also done through the diplomatic mission, consular post or recognized international organization, which provides the Protocol Department with the documents required. In Belgium, the residence status of diplomatic domestic staff is linked to the employer's length of stay: the worker must leave the country at the end of the employer's contract. The person cannot change employer and does not receive a temporary residence permit. In Belgium, diplomatic domestic staff must renew and collect their identity card in person every year. During the appointment for this procedure, an individual interview may be conducted about their employment. The Protocol Department can thus conduct checks and detect any signs of exploitation.

11. In the event of a dispute over the performance of an employment contract, both the employer and the employee can turn to the Good Offices Commission. The Commission was created by a ministerial circular issued on 23 May 2013 for staff employed in diplomatic missions. The Commission is made up of representatives from the Department for Employment Law Inspection of the Federal Public Service for Employment, the Protocol Department of the Federal Public Service for Foreign Affairs, the National Social Security Office, the Department of International Relations of the Federal Public Service for Finance, the Federal Public Service for Social Security and trade union organizations. Its main objective is to work towards resolving any problems that may arise between these employees and their employer. Its role, however, is limited to providing advice with a view to reaching an amicable settlement in the event of a dispute. The Commission also informs diplomatic missions and consular posts of their obligations.

12. The Belgian system for protecting victims of trafficking in persons working for diplomatic personnel is generally regarded as an example of good practice, including in the 2020 annual report of the Federal Migration Centre (Myria), which did, nevertheless, highlight some shortcomings. However, the fact remains that it is a purely preventive and mediatory system, and it is particularly difficult to reach a solution when the employer refuses to cooperate. In the event of non-cooperation, legal and administrative proceedings are possible only when the diplomat's posting in the host country is terminated.

Follow-up information relating to paragraph 37 (a) of the concluding observations

13. The fight against child poverty is a cross-cutting theme throughout the fourth federal plan to combat poverty and reduce inequality. This commitment is underlined in the fourth pillar of the plan, which calls for the European Child Guarantee to be implemented in Belgium, in close collaboration with the federated entities. For the second year running, the Federal Government is funding a project to combat child poverty in 16 public welfare centres,

in line with the guidelines of the European Child Guarantee. For 2023, the funding amounted to a total of €1,025,171.78.

14. The Walloon Plan to lift people out of poverty includes measures aimed directly at children. The project for assisting single-parent families is designed to provide them with information on their rights as well as specific assistance to limit the risk of poverty and social exclusion. The project's other aims are to inform single-parent families about the assistance available in order to ensure that it is fully utilized, particularly in terms of training, job-seeking, childcare services, housing assistance, alimony and family allowances, and to provide financial support for jobseekers receiving assistance, as well as single parents, by extending the contribution of the Walloon Region Department of Employment and Training to nursery and childminding costs.

15. The aim of the project to distribute free healthy snacks in nursery and primary schools that are in receipt of enhanced funding is to organize the preparation and distribution of free snacks made from fresh fruit and vegetables, such as soups and smoothies, to children in schools in economically disadvantaged areas. The aim of this measure is to combat the lack of variety in the diets of the poorest children and thus combat childhood obesity and the medical problems that it can cause. Since April 2021, free healthy snacks made with local produce have been distributed in 23 Walloon schools, with the aim of providing 400,000 snacks over two years. At the end of this pilot phase, an evaluation will be carried out to identify the possibilities for rolling out the initiative more widely. This is a sustainable initiative, since the snacks are produced locally, which means increased income for the producers. Furthermore, the Walloon Government has targeted social enterprises and/or companies with a specific socio-professional reintegration policy for the production of the snacks. In addition to the impact on children, the initiative can therefore have a positive impact on local producers and social enterprises.

16. Measures have been put in place to disseminate information and ensure that the entitlements made available in the context of the public health crisis are fully utilized, at the same time as moving from a system of provisional rights to a system of acquired rights. In addition, equity will be restored in the payment of supplements for large families, persons with reduced earning capacity and persons with disabilities. Finally, a forward-looking analysis of child poverty will be carried out, using family allowances as a variable.

17. As part of the early childhood infrastructure project, 3,143 subsidized childcare places will be created, to which it is likely that 1,960 non-subsidized places will be added. Some of these will be subsidized by the Recovery and Resilience Facility and the rest through the regional budget. Operators will also share some of the cost. Two challenges are addressed through this initiative: firstly, the reduction of the huge disparities between communes in terms of subsidized childcare provision, and secondly, the reduction of disparities between population groups. This measure will be implemented via a call for proposals open to public authorities and non-profit associations.

18. The 2020–2024 Flemish Action Plan to Combat Poverty serves as a central pillar in the fight against poverty in the Flemish Community and the Flemish Region. The Action Plan was revised and updated in 2022 with additional measures to take account of inflation and rising energy costs. In addition to updating the environmental analysis and existing actions, 17 new actions were added from various policy areas, in line with several of the Plan's objectives. The fight against child poverty is one of the strategic objectives under the Plan.

19. Against this backdrop, in 2022 the Flemish Government decided to step up its efforts to combat child poverty. In 2023, the budget was increased by an additional €4 million. In 2024, a further €4 million are earmarked to develop and support local networks of organizations and volunteers to counter, in a structural and sustainable manner, the reduction in opportunities for children and young people and their families in and around schools due to poverty. The Flemish Government is also organizing an innovative and wide-ranging family support initiative for parents-to-be and families with children. Five projects will receive funding to provide extensive support for parents-to-be and young families living in poverty, with the aim of fulfilling their fundamental rights in the fight against structural child poverty.

Follow-up information relating to paragraph 37 (b) of the concluding observations

20. The fourth federal plan was drawn up in collaboration with civil society. In the context of the Belgian Platform for Combating Poverty and Social Exclusion, where the various stakeholders in civil society meet to measure trends in poverty at the federal and European levels, contributions were requested both on strategic objectives and on the level of action. An important role was played by the Belgian Anti-Poverty Network, an association where people living in poverty have their say. Alongside the public welfare centres and the Poverty Prevention Service, it was a key partner in this preparatory process. These bodies were involved in all stages of the drafting process. In February 2023, the minister in charge of poverty reduction met with 50 people living in poverty to present the federal plan and hear their stories.

21. The Walloon Plan to lift people out of poverty is led by a task force which supports the Government in monitoring the implementation of the measures set out in the Plan. It connects the various stakeholders involved, including the Minister-President's Office, the Walloon Region Government Offices and the Walloon Anti-Poverty Network. The task force includes the public welfare centres federation and the Walloon Anti-Poverty Network. The Network is the reference body for issues relating to poverty and vulnerability. It contributes its expertise to the implementation and monitoring of the Plan's various measures, and its members work more closely together on certain themes. As part of the task force, it advises on relevant measures to be implemented to lift out of poverty as many people as possible and conducts more forward-looking analyses as part of anti-poverty measures and policies.

22. The Network relies in particular on "experts by experience", whose aims include helping to improve the services and information provided to the public, in particular people living in poverty. It also supports users in their administrative procedures and catalogues the needs of people living in poverty through interviews, surveys and contact with social organizations. The experts also aim to improve the overall quality and accessibility of the service by drafting proposals for improving communication, procedures and measures, collaborating in the development of partnerships between services and bringing structural problems, shortcomings in legislation and the unrecognized and unaddressed needs of people living in poverty to the attention of decision makers.

23. Participation is an essential aspect of the Flemish anti-poverty decree. To achieve this participation, the decree provides for the recognition and subsidization of associations in which people living in poverty have a voice. At the beginning of 2022, the maximum number of associations that could be recognized was increased from 52 to 58. In 2022, a research and identification process was conducted for candidate associations. On 1 January 2023, there were 58 recognized associations in which people living in poverty have their say. The Anti-Poverty Network supports exchanges between associations and facilitates dialogue between politicians and people living in poverty.

Follow-up information relating to paragraph 37 (c) of the concluding observations

24. At the federal level, under the current legislature, minimum social benefits and pensions will be increased by 10.75 per cent, before indexation, as will the welfare budget, in order to bring them as close as possible to the European poverty line. As part of the preparation process, a substantive and methodological assessment of areas including communication, sustainability, gender and monitoring was carried out with the help of experts from other federal administrations.

Follow-up information relating to paragraph 41 of the concluding observations

25. On 20 September 2022, the Walloon Region adopted a decree suspending the enforcement of all administrative and judicial eviction decisions between 1 November 2022

and 15 March 2023. Only decisions taken for reasons of public safety, imminent danger to the physical and mental health of the occupants or wilful damage to property, such as certain police orders issued on the basis of article 135 (2) of the new Communes Act or the Walloon Sustainable Housing Code, can be enforced. Police forces are responsible for ensuring that the ban on physical evictions from homes is adhered to and, to that end, they may use coercion or force if necessary.

26. The Walloon Region has also launched a project based on the finding that disputes between landlords and tenants can lead to extreme situations, including eviction. These situations can be avoided by establishing a dialogue between the two parties, as demonstrated by pilot projects such as the joint rental commissions already in place in several major cities.

27. With a view to preventing and reducing disputes between landlords and tenants, a pilot project will be carried out in 2023 and 2024 in the Walloon Region, focusing on the feasibility of a conciliation mechanism between landlords and tenants. The aim of this measure is to reduce disputes between tenants and landlords by encouraging the resumption of dialogue as early as possible in the process, before legal action is taken. It will also speed up the resolution of rental disputes.

28. In the Flemish Region, eviction is only possible following administrative or civil proceedings. The administrative route is part of housing quality control. In application of the fundamental right to housing, the Flemish Government imposes minimum requirements in terms of safety, health and quality of housing, which every dwelling in the Flemish Region must meet. These standards are applied through a graduated system, where the first step is to encourage housing repairs to avoid evictions, among other reasons. A dwelling is declared uninhabitable only in the most serious cases, potentially leading to the occupant's departure. Such cases concern dwellings with serious defects that undermine human dignity or pose an immediate danger to the safety or health of the occupants. With these conditions, the Flemish Housing Code meets the Committee's requirements in this area. In addition, local authorities are obliged to take the necessary steps to rehouse people in need of housing (defined as the target group for social housing) when they have to leave their current home due to an unsuitable housing situation or the presence of serious risks to their health and safety. The Flemish Region supports local authorities in this obligation by offering them the possibility of recovering rehousing costs from the landlord and by facilitating this recovery with standardized documents. Through annual calls for proposals, the Flemish Region also subsidizes an additional supply of emergency housing.

29. Evictions following civil proceedings almost always concern the rental sector. Proceedings are usually initiated for rent arrears, and occasionally for damage or disturbance. In the Flemish Region, expulsion is always subject to the oversight of a judge. This means that the judge can assess whether the landlord's request is motivated by a legitimate interest, and, in the light of such an interest, whether the sanction of eviction is proportionate. In order to ensure that eviction is imposed only as a last resort, the judge will take into account the impact on the person's right to housing and the vulnerable circumstances in which they find themselves. In addition, the Flemish Housing Code requires court clerks to inform the local public welfare centre of all eviction requests. In turn, the centre is required to provide the most appropriate form of assistance. Depending on the needs of the person or persons concerned, this assistance can take various forms, from mediation (in the case of debt) or legal assistance (to avoid eviction) to material aid or support in finding alternative accommodation. The Flemish Region has been supporting the fulfilment of this obligation since 2020 with the introduction of an anti-eviction fund. When eviction is imminent, public welfare centres can call on this fund to immediately reimburse up to half of the rent owed to the landlord. The aim is to create space for mediation solutions and avoid eviction. In addition, data is collected every year by the Association of Flemish Cities and Municipalities on the number of eviction applications lodged with justices of the peace.

30. At the request of the Flemish Government, the National Association of Bailiffs has also launched a periodic survey of bailiffs on the number of eviction orders served and the number of evictions carried out.

31. The Flemish Housing Code is based on the principle that the right to decent housing applies to everyone, regardless of the type of housing they choose. As a result, the protection

offered is wide-ranging. For example, minimum quality standards apply to every home in the Flemish Region. Movable property, such as caravans and houseboats, also benefits from protection in cases where the occupant intends to leave the property in place permanently. At the same time, the Flemish Government considers the specific needs of certain target groups. In recent years, major efforts have been made to create residential sites for caravan-dwellers and Roma families. More specifically, the Flemish Region has opted for an incentive policy, in consultation with local initiatives. The subsidies available are certainly high: the purchase and creation of sites are subsidized at 100 per cent for new sites and at 90 per cent for the renovation of existing sites. Sufficient funds, usually between €2.2 million and €4.3 million, are also budgeted each year for this purpose.

32. In the Brussels-Capital Region, the eviction of tenants from social, low-cost or affordable housing let by public service housing associations is considered a last resort and has been governed by circulars issued by the Housing Association for the Brussels-Capital Region since November 2000. The main thrust of the circular currently in force, which dates from 28 September 2018, is that tenant evictions are a particularly sensitive issue and that a public service housing association cannot be a landlord like any other and must above all carry out the social mission entrusted to it. The principles set out in the circular were discussed within the select committee tasked with ensuring consultation between the Housing Association for the Brussels-Capital Region and public service housing associations. All the stakeholders involved are aware of the need to regulate the practice of evictions to avoid any possible abuse.

33. The Board of Directors of each public service housing association must adopt a procedure for recovering debts and draw up a framework for action, including reminder letters, mediation, payment plans and referral to a justice of the peace, to be implemented for existing tenants. Any decision to carry out an eviction of a tenant of social, low-cost or affordable housing, whatever the date and whatever the reason, including arrears, is preceded by:

- A reasoned and comprehensive report from the public service housing association. Any eviction is thus prohibited if the housing association cannot prove that it has tried to find an amicable solution, negotiated with the tenant, either through its own services or through recourse to a third-party organization such as a public welfare centre, Debt Mediation Centre or non-profit association.
- An opinion from the ombudsman service of the Housing Association for the Brussels-Capital Region regarding compliance with the procedure defined by the Board of Directors of the public service housing association and with the guidelines set out in the circular governing evictions. The ombudsman service is required to submit its opinion within eight working days of the date on which it was requested.

34. For housing let by housing associations, a winter period currently running from 1 December of each year to 15 March of the following year is recognized on the basis of the circular of 28 September 2018 drawn up by the Housing Association for the Brussels-Capital Region. An ordinance of 16 June 2023 amending the Brussels Housing Code, due to come into force on 1 September 2023, will be published in the Official Gazette. The provisions of this ordinance stipulate that the winter period will run from 1 November to 15 March and will apply in particular to social, low-cost or affordable housing rented out by public service housing associations, thus replacing the winter period stipulated in the circular issued by the Housing Association for the Brussels-Capital Region. During this period, any eviction of a tenant from social, low-cost or affordable housing is prohibited. When used as a last resort, evictions must be decided on a case-by-case basis by the Board of Directors of the public service housing association or the body to which it has delegated this responsibility pursuant to the articles of association, based on a report drawn up by the ombudsman service. This report must be submitted within eight working days of the date on which it was requested. Tenants in social, low-cost or affordable housing cannot be evicted unless this procedure is followed. The use of private debt collection companies for tenants who continue to live in social, low-cost or affordable housing is prohibited. Homes earmarked for renovation as part of an investment plan are subject to a tenant rehousing plan that must be submitted to the Housing Association for the Brussels-Capital Region for approval.

35. On 16 June 2023, the Parliament of the Brussels-Capital Region adopted an ordinance inserting procedural rules applicable to judicial evictions into the Brussels Housing Code. This text has been sent for publication in the Official Gazette and will apply from 1 September 2023. Its aim is to avoid evictions wherever possible, notably through reinforcing support systems and taking proactive steps in each phase of the procedure that might lead to the termination of the lease and the eviction of the tenant. Its main measures therefore include the reorganization of the rental dispute procedure, with the aim of increasing the effectiveness of the involvement of public welfare centres in the various phases of the procedure and allocating a reasonable time frame before the judge examines the eviction application. This is in the interests of both tenant and landlord, as the main objective is to enable the tenant to repay the arrears that form the basis of the eviction request, or, if this cannot be done within a reasonable time, to enable the tenant to find permanent alternative accommodation, if necessary, with the help of the public welfare centre. If an eviction decision is unavoidable, the provisions of the new ordinance are designed to ensure that the tenant can find alternative accommodation with the help of the public welfare centre: a more effective intervention is made possible by better communication of decisions taken or being implemented.

36. The judge who receives an eviction application will have to examine the consequences of his or her decision on the tenant's housing situation and ensure that they are not disproportionate. In this respect, the aim is to prevent the termination of a rental lease on the grounds of rent arrears or minor contract breaches, or for debts that could be repaid within a reasonable period of time.

37. The new text is designed to ensure that, in the event of an adversarial or default judgment, no decision can be taken without a proportionality review having taken place and that no eviction is authorized without a finding that the debt cannot be repaid by granting a reasonable period of grace.

38. The period during which all evictions are suspended runs from 1 November to 15 March. The ban on evictions in winter is designed to avoid inhumane situations if no alternative accommodation can be found, despite increased involvement of the public welfare centre from the outset of the procedure, and applies automatically unless the provisions to be enforced stipulate otherwise or if a judgment issued pursuant to the provisions allows for an eviction even in winter. During the period when evictions are prohibited, the owner will receive compensation.

39. With regard to systematic registration and monitoring, the new ordinance stipulates that all decisions and judgments authorizing evictions must be communicated by the clerk's office and the court of arbitration to the perspective.brussels housing observatory. The Brussels housing authority will publish on its website an annual monitoring report of evictions. The aim of this annual monitoring exercise is to inform those involved in housing policy about avoidable evictions and to adapt regional policy in this area with a view to guaranteeing the right to housing for all.

40. With regard to Roma families, in October 2022 perspective.brussels launched a property prospecting survey aimed at drawing up a list of sites likely to be able to accommodate Travellers, on a permanent basis if possible. The study is being carried out by IDEA Consult and is based on an update of the sites included in the 2020 survey done by perspective.brussels, as well as on meetings with regional, federal and municipal landowners and a survey of the private market. The final report was delivered at the end of December 2022. The sites that have been selected are currently being evaluated with stakeholders on the ground.

41. As part of the National Strategy for the Integration of the Roma, developed by the Government and submitted to the European Commission in June 2022, the Common Community Commission and the French Community Commission, in collaboration with the Centre for Equal Opportunities and Action against Racism (Unia), will prepare and draw up a strategy and action plan, in regular consultation with partners working on the ground with Roma populations. To this end, on 21 June 2022, an initial round table was organized with local stakeholders and Unia. Following this meeting, and based on the recommendations

made by the stakeholders on the ground, a working document was drawn up with the aim of designing a strategy for the inclusion of the Roma population in Brussels.

42. In addition, action 13 of the Brussels Anti-Racism Plan (2022–2025) is aimed at setting up working groups to fulfil the fundamental rights of the Roma and Travellers, with the objective of incorporating those rights in regional policies.

43. To this end, several actions are planned, such as the creation of working groups and the exchange of information, setting annual targets for guaranteeing the fundamental rights of the Roma and Travellers and establishing a mechanism for verifying this systematic consideration of the human rights of the Roma and Travellers, including the actions outlined in the National Strategy for the Integration of the Roma.

44. Lastly, the 2022 Integrated Health and Social Plan adopted by the Board of Directors of the Common Community Commission identifies the Roma as a vulnerable group that faces difficulties in obtaining access to rights and services. Under strand 2 of the Plan, specific attention is focused on this issue with respect to the Roma. The chapter on reception and accommodation of vulnerable groups in the operational section of the Plan states that support is in place for social and health initiatives aimed at the Roma population. To this end, the Common Community Commission has been providing financial support for several years to the Le Foyer non-profit association for its mediation project for Travellers and Roma families moving around the Brussels-Capital Region.
