



# Convention on the Elimination of All Forms of Discrimination against Women

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## Committee on the Elimination of Discrimination against Women

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

1. The Committee considered the seventh periodic report of Belgium (CEDAW/C/BEL/7) at its 1257<sup>th</sup> and 1258<sup>th</sup> meetings, on 28 October 2014 (see CEDAW/C/SR.1257 and 1258). The Committee's list of issues and questions in relation to the seventh periodic report of Belgium is contained in CEDAW/C/BEL/Q/7 and the responses of the State party are contained in CEDAW/C/BEL/Q/7/Add.1.

#### A. Introduction

2. The Committee appreciates that the State party submitted its seventh periodic report. It also appreciates the State party's written replies to the list of issues and questions raised by its pre-session working group. It welcomes the oral presentation of the delegation and the further clarifications provided in response to the questions posed orally by the Committee during the dialogue.

3. The Committee commends the State party delegation which was headed by H.E. Mr. Bertrand De Crombrughe, Ambassador and Permanent Representative of Belgium to the United Nations Office at Geneva. The delegation also included representatives from the Institute for Equality of Women and Men; the Federal Public Services for Justice, Interior and Employment, Work and Social Dialogue; the Federated Entities; as well as the Permanent Mission of Belgium to the United Nations at Geneva.

#### B. Positive Aspects

4. The Committee welcomes the progress achieved since the consideration in 2008 of the State party's combined fifth and sixth periodic reports (CEDAW/C/BEL/5-6) in undertaking legislative reforms, in particular the adoption of:

(a) The Law of 28 July 2011 concerning women's participation in management boards of companies and autonomous public enterprises;

(b) The Law of 8 March 2012 aimed at reducing the wage gap between women and men;

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\* Adopted by the Committee at its fifty-ninth session (20 October – 7 November 2014).

(c) The Royal Order of 2 June 2012 promoting the representation of women on high-level posts in the public service;

(d) The Law of 8 May 2014 amending the Civil Code, providing for equality of women and men in transmitting their surname to their biological or adopted children;

(e) The Laws of 28 February 2014 and 28 March 2014 and the Royal Decree of 10 April 2014 on the prevention of psychosocial risks at the workplace which includes the issue of sexual harassment; and

(f) The Law of 22 May 2014 against sexism.

5. The Committee also notes with appreciation the adoption of the National Action Plan to combat partner violence and other forms of domestic violence (2010-2014).

6. The Committee welcomes the ratification of the following international treaties since the consideration of the previous report:

(a) The Convention for the Protection of All Persons from Enforced Disappearance, in 2011;

(b) The Convention on the Rights of Persons with Disabilities, in 2009; and

(c) The Council of Europe Convention on Action against Trafficking in Human Beings, in 2009.

## **C. Principal areas of concern and recommendations**

### **Parliament**

**7. The Committee stresses the crucial role of the legislative power in ensuring the full implementation of the Convention (see the statement by the Committee on its relationship with parliamentarians, adopted at the forty-fifth session, in 2010). It invites the Federal Parliament and the parliaments of the federated entities, in line with their mandates, to take necessary steps regarding the implementation of the present concluding observations between now and the next reporting period under the Convention.**

### **Legislative framework**

8. The Committee notes the existence of an established case-law since the judgement of the Court of Cassation of 27 May 1971 affirming the primacy of provisions of international treaties having direct effects in internal law over provisions of national origin. However, the Committee is concerned that the direct applicability of the provisions of the Convention is determined by domestic courts, thereby not ensuring that all substantive provisions of the Convention are fully applicable in the domestic legal order.

**9. The Committee calls on the State party to ensure that substantive provisions of the Convention are fully applicable in the domestic legal order.**

### **National Machinery for the Advancement of Women**

10. The Committee welcomes the work of the Institute for the Equality of Women and Men. However, it notes with concern that the Institute lacks the power to coordinate the implementation of the federal policies on gender mainstreaming provided for by the law of 12 January 2007 on gender mainstreaming. The Committee is also concerned about the absence of an overarching strategy on gender mainstreaming. It is further concerned about the slow and fragmented implementation of the “gender test” intended to assess the impact of draft legislation on the situation of women and men.

11. **The Committee recommends that the State party, in light of the complexities of its federal structure:**

(a) **Consider adopting a national action plan on gender mainstreaming with clear timelines and measurable benchmarks in order to achieve the full and uniform implementation of the 2007 law on gender mainstreaming throughout the State party's territory;**

(b) **Consider providing the Institute for the Equality of Women and Men with the competence to coordinate the implementation of policies on gender mainstreaming; and**

(c) **Ensure the systematic implementation of the "gender test" intended to assess the impact of draft legislation on the situation of women and men.**

12. The Committee is concerned about the absence of an independent national human rights institution with a broad mandate to work on all human rights aspects, including women's rights, in compliance with the Principles relating to the status of national institutions for the promotion and protection of human rights (the Paris Principles).

13. **The Committee recommends that the State party establish, within a clear timeframe, an independent national human rights institution in compliance with the Paris Principles (General Assembly Resolution 48/134 of 20 December 1993) with a specific mandate to advance women's rights and promote equality of women and men.**

#### **Temporary Special Measures**

14. The Committee welcomes the existing temporary special measures to increase the participation of women in Parliament and in management boards of companies and autonomous public enterprises. However, the Committee remains concerned about the persistent under-representation of women, particularly women belonging to minority communities, at decision-making levels in political and public life and in the private sector. The Committee is also concerned about the absence of temporary special measures aimed at addressing inequalities faced by disadvantaged groups of women, such as rural women, older women, women with disabilities and migrant women.

15. **The Committee recommends that the State party evaluate the application of existing temporary special measures and develop additional temporary special measures, in accordance with article 4, paragraph 1, of the Convention and the Committee's General Recommendation no. 25 (2004) on temporary special measures, as a necessary strategy to accelerate the achievement of substantive equality of women and men, in particular to enhance rights of minority women, in all areas of the Convention where women are underrepresented or disadvantaged.**

#### **Stereotypes and harmful practices**

16. The Committee is concerned about the lack of effective implementation of the National Action Plan to combat partner violence and other forms of domestic violence (2010-2014), in particular as regards forced marriages, violence in the name of so-called "honour", and female genital mutilation. It is also concerned about the ineffective enforcement of the Law banning female genital mutilation, which is further aggravated by the lack of awareness of the Law among communities engaging in this practice and among health workers.

17. **The Committee recommends that the State party strengthen its efforts to strictly enforce the Law banning female genital mutilation and effectively implement the National Action Plan to combat partner violence and other forms of domestic violence (2010-2014), with a view to eliminating female genital mutilation as well as other harmful practices such as forced marriages and violent acts against women**

and girls committed in the name of so-called “honour”. Recalling Joint General Recommendation/General Comment No. 31 of the Committee on the Elimination of Discrimination against Women and No. 18 of the Committee on the Rights of the Child on harmful practices (2014); the Committee also recommends that the State party increase its efforts to raise awareness of the criminal nature of these practices and their adverse impact on the rights of women and girls among communities where these practices are prevalent and among health workers.

18. The Committee is concerned about the lack of information on the impact on women and girls of the ban on wearing headscarves, as stipulated in the rules, regulations and by-laws of several local administrations, public hospitals, schools and private companies in different parts of the State party.

19. **The Committee recommends that the State party monitor and assess the impact on women and girls, particularly in relation to their access to education and employment, of the ban on wearing headscarves adopted by several local administrations, public hospitals, schools and private companies, and compile information on the number of women and girls who have been sanctioned on the basis of such ban.**

#### **Violence against women**

20. The Committee notes with concern:

(a) That the National Action Plan to combat partner violence and other forms of domestic violence (2010-2014) lacks clear timelines, measurable benchmarks and fails to address the specific needs of migrant women victims of domestic violence;

(b) That the number of shelters available to women victims of violence is insufficient, and that undocumented migrant women are often not admitted to these shelters because of financial constraints; and

(c) That the Aliens Law fails to grant temporary residence to women victims of domestic violence who are undocumented or are awaiting a residence permit on the basis of family reunification. In addition, while noting the State party’s indication that deportations are unlikely in the above-mentioned cases and that the women can apply for a residence permit on humanitarian grounds, the Committee is concerned that fear of deportation prevent victims to report cases of domestic violence.

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

(a) **Include in its National Action Plan to combat partner violence and other forms of domestic violence (2010-2014) clear timelines, measurable benchmarks and measures to address the specific needs of migrant women victims of domestic violence;**

(b) **Increase the number and capacity of State-run shelters for women victims of violence and ensure that all women have non-discriminatory access to these shelters, including undocumented migrant women;**

(c) **Amend the Aliens Law: (i) to grant temporary residence to migrant women victims of domestic violence who are undocumented or are awaiting their residence permit on the basis of family reunification, and (ii) to ensure that migrant women having a residence permit as a result of family reunification who are victims of domestic violence and want to leave their husband are not required to prove that they are employed, self-employed, or have ‘sufficient means of subsistence’ to receive residence permits on their own; and raise awareness of migrant women on the existence of the new legal provisions once adopted;**

(d) **Ensure that all migrant women can seek protection from domestic violence and halt deportation procedures in this context.**

22. The Committee welcomes the drafting, in February 2014, of a checklist of good practices in responding to sexual offences for police officers. However, the Committee notes with concern:

(a) The qualification of sexual abuse as an “offence against public morality and family order”, under title VI of the Criminal Code;

(b) The lack of comprehensive statistical data on violence against women, disaggregated by age, ethnicity, nationality and relationship between the victim and the perpetrator, including on the number of women murdered by their partners or ex-partners;

(c) The absence of specialized centres providing medical treatment, psychological counselling, immediate medical and forensic examination to collect evidence and legal assistance to women victims of sexual violence;

(d) The under-reporting of rape and the high number of rape and domestic violence charges dropped, due in part to lack of trust in the police and inadequate support services; and

(e) The incomplete process of ratification of the Council of Europe Convention on Preventing and Combating Violence against Women and Domestic Violence (Istanbul Convention), signed on 11 September 2012.

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

**(a) Amend the Criminal Code with a view to qualifying sexual abuse as a crime against the person rather than an offence against public morality and family order;**

**(b) Collect statistical data on all forms of violence against women disaggregated by age, ethnicity, nationality and relationship between the victim and the perpetrator;**

**(c) Establish specialized centres (one-stop-shops) for victims of sexual violence where they can receive medical treatment, psychological counselling, immediate medical and forensic examinations to collect evidence, and legal assistance to file a complaint;**

**(d) Study the reasons for the under-reporting of cases of rape and the high number of rape and domestic violence charges dropped, in order to inform the development of policies and strategies to address this issue, including policies to build trust of women victims of violence in the police and law enforcement system;**

**(e) Expedite the ratification of the Council of Europe Convention on Preventing and Combating Violence against Women and Domestic Violence (Istanbul Convention).**

#### **Trafficking and exploitation of prostitution**

24. The Committee notes with concern that no temporary residence permits are granted to victims of trafficking who, after a 45-day reflection period, do not report that they are victims of human trafficking and refuse or are unable to cooperate with the prosecution authorities. It also notes with concern the absence of comprehensive information and data on trafficking in women and girls, the reportedly low number of prosecutions and convictions of traffickers, and reports on the insufficient funding for combatting trafficking in women and girls and for assisting victims.

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

(a) **Grant temporary residence permits to women and girls who are victims of trafficking regardless of their ability or willingness to cooperate with the prosecution authorities and to file a complaint;**

(b) **Increase its efforts to investigate, prosecute and punish traffickers;**

(c) **Ensure that adequate human and financial resources are allocated to policies and programmes to combat trafficking in persons;**

(d) **Continue its efforts to ensure that victims of trafficking have effective access to medical care, psychosocial counselling, legal assistance, as well as to rehabilitation and reintegration programmes; and**

(e) **Increase efforts aimed at international, regional and bilateral cooperation with countries of origin, transit and destination to prevent trafficking through information exchange and to harmonize legal procedures aiming at prosecution of traffickers.**

26. **The Committee is concerned about:**

(a) **The absence of comprehensive information and data on the prevalence of prostitution in the State party;**

(b) **The absence of measures taken to discourage the demand for prostitution; and**

(c) **The lack of information on measures taken to provide alternative income-generating opportunities to women who wish to leave prostitution.**

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

(a) **Carry out a study on the prevalence of prostitution in the State party and address the root causes of prostitution of women and girls in order to eliminate their vulnerability to sexual exploitation and trafficking;**

(b) **Take measures to discourage the demand for prostitution, including by considering criminalizing purchase of sexual services; and**

(c) **Assist women and girls who wish to leave prostitution, including by providing alternative income-generating opportunities.**

#### **Participation in political and public life**

28. **The Committee welcomes the results achieved in the participation of women in the legislative powers at all levels of the State. However, it remains concerned about the unequal representation of men and women, including women belonging to ethnic and religious minorities, in appointed positions in the federal government and in the governments of the federated entities. The Committee is also concerned that women continue to be underrepresented in the diplomatic service and in international organizations. It is further concerned that the measures envisaged for the private sector are limited and that their evaluation is planned only in 2023, which does not enable for taking corrective measures should they be needed.**

29. **The Committee calls upon the State party to take measures, such as statutory quotas or other measures, to guarantee the equal representation of men and women, including women belonging to ethnic and minority groups, in appointed positions in the federal government and in the governments of the federated entities, as well as in the diplomatic service and in international organizations. The Committee further recommends that the State party reinforce the mechanisms it has established so far for the private sector in order to better overcome the under-representation of women in all types of enterprises.**

## Education

30. The Committee welcomes the high level of education of women in the State party. However, it remains concerned about:

- (a) The fact that women and girls continue to choose traditionally female-dominated fields of education;
- (b) The persistence of gender stereotypes in certain textbooks;
- (c) The low number of women teachers at higher levels of education; and
- (d) The lack of information on whether the high dropout rate from school among children with a migration background disproportionately affects migrant girls as compared to migrant boys.

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

**(a) Intensify its efforts aimed at diversifying academic and vocational choices for women and men and take further measures to encourage women and men to choose non-traditional fields of education and careers;**

**(b) Ensure that all gender stereotypes are eliminated from textbooks; that school curricula, academic programmes and professional training for teachers cover women's rights and promote gender equality; and that higher level courses be introduced on gender studies;**

**(c) Encourage applications by women for teaching positions at higher levels of education and accelerate the appointment of women in academia; and**

**(d) Conduct a study on the extent and the root causes of school dropout among girls with a migration background that will inform policy interventions to guarantee their retention in educational institutions.**

## Employment

32. The Committee welcomes the adoption of the 2012 Law aimed at reducing the gender wage gap and the 2011 Law on women's participation in management boards of listed companies and autonomous public enterprises. However, it remains concerned at:

(a) The persistent gender wage gap as well as horizontal and vertical segregation in the labour market, where women are concentrated in lower-paid and part-time work, which adversely affects their career development and pension benefits;

(b) The fact that the evaluation of the implementation of the 2011 Law on women's participation in management boards of listed companies and autonomous public enterprises is due to take place only in 2023 and that no similar temporary special measures are envisaged in other companies to increase the representation of women at decision-making levels;

(c) The large number of cases of discrimination on grounds of pregnancy and motherhood filed with the Institute for the Equality of Women and Men;

(d) The low number of cases of sexual harassment that are considered to be well-founded by the labour courts (14.3 percent) and the increasing number of complaints concerning sexual harassment received by the Institute for the Equality of Women and Men between 2009 and 2011; and

(e) The absence of a study on gender-based discrimination in the social security system.

33. **The Committee recommends that the State party:**
- (a) **Continue taking concrete and proactive measures to eliminate occupational segregation and to reduce the gender pay gap, including by ensuring the strict application of the 2012 Law aimed at reducing the gender wage gap;**
  - (b) **Create more opportunities for women to access full-time employment;**
  - (c) **Consider undertaking a first evaluation of the impact of the 2011 Law on women's participation in management boards of listed companies and autonomous public enterprises within the next four years and carrying out regular evaluations, and include the information on the results of these evaluations in its next periodic report; and consider taking temporary special measures to accelerate women's participation at the decision-making level in companies that are not covered by the 2011 Law;**
  - (d) **Ensure women's effective access to justice in cases of discrimination on grounds of pregnancy and motherhood and of sexual harassment; and**
  - (e) **Carry out a study on the prevalence of gender-based discrimination in the social security system.**

#### **Health**

34. The Committee is deeply concerned about:
- (a) The reported disproportionately high number of sterilization of women with intellectual and/or psycho-social disabilities; and
  - (b) The high breast cancer rate in the State party as compared to the rates in other European countries.
35. **The Committee recommends that the State party:**
- (a) **Ensure that, in practice, there is no non-consensual sterilization of women with intellectual and/or psycho-social disabilities who have been deprived of their legal capacity or have limited legal capacity, and provide these women with the necessary support to decide whether or not they wish to give their informed consent for sterilization; and**
  - (b) **Increase its efforts to raise awareness among women about the importance of undergoing regular mammography tests.**

#### **Disadvantaged groups of women**

36. The Committee is concerned about the continued discrimination against migrant women, including multiple and intersectional forms of discrimination on the basis of sex and other grounds such as ethnic or religious background, both in society at large and within their communities.
37. **The Committee recommends that the State party take measures to eliminate discrimination against migrant women, including multiple and intersectional forms of discrimination, both in society at large and within their communities, and promote positive images of women belonging to ethnic and religious minorities.**
38. The Committee notes with concern the increasing feminization of old age and the multiple forms of discriminations faced by older women.
39. **In line with its General Recommendation No. 27 (2010) on older women and protection of their human rights, the Committee recommends that the State party pay special attention to the precarious situation of older women, develop measures that adequately address their health, economic and emotional situation in order to avoid**

**poverty and isolation, and ensure the availability of care centres to meet the needs of older women, especially single older women and those without family support.**

40. The Committee is concerned about multiple and intersectional forms of discrimination against women with disabilities and about the high rate of violence against them.

**41. The Committee recommends that the State party strengthen its efforts to eliminate discrimination and violence against women with disabilities.**

42. The Committee welcomes the development of a legal and institutional framework allowing the granting of refugee status to persons with a well-founded fear of gender-based persecution. However, it is concerned that, unaccompanied asylum-seeking girls are not always assigned a female guardian, and that asylum-seeking women are not systematically provided with a female lawyer or interpreter.

**43. The Committee recommends that the State party assign female guardians to unaccompanied girls and female lawyers and interpreters to asylum-seeking women.**

44. The Committee is concerned that, to obtain legal recognition of their gender, transgender women need to undergo a lengthy and burdensome procedure and are required to undergo a psychiatric assessment and compulsory sterilization or surgery.

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

**(a) Lighten the procedure for transgender women to obtain legal gender recognition by making it more expeditious, transparent and accessible; and**

**(b) Amend current laws and practices, in particular the Law on Transsexuality of 10 May 2007, to abolish the requirements of a psychiatric assessment and sterilization and surgery for transgender women- who wish to obtain legal recognition of their gender.**

#### **Data collection and analysis**

46. The Committee is concerned about the general lack of statistical data. It notes that data disaggregated by sex, age, nationality, geographical location and socioeconomic background are necessary for an accurate assessment of the situation of women, to determine whether they suffer from discrimination, for informed and targeted policymaking and for the systematic monitoring and evaluation of progress achieved towards the realization of women's substantive equality in all areas covered by the Convention.

**47. The Committee calls upon the State party to develop a gender indicator system to improve the collection of data disaggregated by sex and other relevant factors necessary to assess the impact and effectiveness of policies and programmes aimed at mainstreaming gender equality and enhancing women's enjoyment of their human rights. In this regard, the Committee draws the State party's attention to the Committee's General Recommendation No. 9 on statistical data concerning the situation of women.**

#### **Amendment to article 20 (1) of the Convention**

48. The Committee encourages the State party to accept, as soon as possible, the amendment to article 20 (1) of the Convention concerning the meeting time of the Committee.

#### **Beijing Declaration and Platform for Action**

**49. The Committee calls upon the State party to use the Beijing Declaration and Platform for Action in its efforts to implement the provisions of the Convention.**

**Millennium Development Goals and the post-2015 development framework**

50. The Committee calls for the integration of a gender perspective, in accordance with the provisions of the Convention, into all efforts aimed at the achievement of the Millennium Development Goals and into the post-2015 development framework.

**Dissemination**

51. The Committee recalls the obligation of the State party to systematically and continuously implement the provisions of the Convention. It urges the State party to give priority attention to the implementation of the present concluding observations and recommendations between now and the submission of the next periodic report. The Committee therefore requests that the present concluding observations be disseminated in a timely manner, in the official languages of the State party, to the relevant State institutions at all levels (national, regional and local), in particular to the Government, the Parliament and the judiciary, to enable their full implementation. It encourages the State party to collaborate with all stakeholders concerned, such as employers' associations, trade unions, human rights and women's organizations, universities, research institutions and the media. It further recommends that its concluding observations be disseminated in an appropriate form at the local community level, so as to enable their implementation. In addition, the Committee requests the State party to continue to disseminate the Convention, the Optional Protocol thereto and relevant jurisprudence, in addition to the Committee's general recommendations, to all stakeholders.

**Ratification of other treaties**

52. The Committee notes that the adherence of the State party to the nine major international human rights instruments<sup>1</sup> would enhance the enjoyment by women of their human rights and fundamental freedoms in all aspects of life. The Committee therefore encourages the State party to consider ratifying the International Convention on the Protection of the Rights of All Migrant Workers and Members of their Families to which it is not yet a party.

**Follow-up report**

53. The Committee requests the State party to provide, within two years, written information on the steps taken to implement the recommendations contained in paragraphs 21 (b) and (c) and 25 (a).

**Preparation of the next report**

54. The Committee invites the State party to submit its eighth periodic report in November 2018.

55. The Committee requests the State party to follow the harmonized guidelines on reporting under the international human rights treaties, including guidelines on a common core document and treaty-specific documents (HRI/MC/2006/3 and Corr.1).

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<sup>1</sup> The International Covenant on Economic, Social and Cultural Rights; the International Covenant on Civil and Political Rights; the International Convention on the Elimination of All Forms of Racial Discrimination; the Convention on the Elimination of All Forms of Discrimination against Women; the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment; the Convention on the Rights of the Child; the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families; the International Convention for the Protection of All Persons from Enforced Disappearance; and the Convention on the Rights of Persons with Disabilities.

