



HAUT-COMMISSARIAT AUX DROITS DE L'HOMME • OFFICE OF THE HIGH COMMISSIONER FOR HUMAN RIGHTS
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Excellency,

In my capacity as Rapporteur for Follow-up on Concluding Observations of the Committee on the Elimination of Discrimination against Women (CEDAW), I have the honour to refer to the examination of the seventh periodic report of Belgium at the Committee's fifty-ninth session, held in November 2014. At the end of that session, the Committee's concluding observations were transmitted to your Permanent Mission (CEDAW/C/BEL/CO/7). You may recall that in the concluding observations, the Committee requested Belgium to provide, within two years, written information on the steps undertaken to implement the recommendations contained in paragraphs 21 (b) and (c) and 25 (a) of the concluding observations.

The Committee welcomes the follow-up report received on time in November 2016 (CEDAW/C/BEL/CO/7/Add.1) under the CEDAW follow-up procedure. At its sixty-seventh session, held in July 2017 in Geneva, the Committee examined this follow-up report and adopted the following assessment.

Regarding the recommendation made in **paragraph 21** of the concluding observations, that the State party “increase the number and capacity of State-run shelters for women who are victims of violence and ensure that all women, including undocumented migrant women, have non-discriminatory access thereto”: The State party indicated that in 2016, the number of authorized spaces in the 15 shelters of the Walloon Region (including 3 at a secret location) have been increased by 2 and the subsidized spaces by 5. The State party added that from 1 January 2017, additional shelters will be accredited and additional spaces will be subsidized. The State party added that there has been no increase in the capacity of the women's shelters in the Flemish community since 2014. It informed that greater emphasis is now placed on prevention and non-residential assistance and residential-type assistance is no longer being developed. The State party added that victims and their children who are in serious danger are assigned to residential-type assistance only, and this at a secret location. The State party further informed that since most victims needed a safe location only for a short time, shelters have been transformed from residential accommodations at secret locations to residential accommodations at safe locations. The State party added that figures provided by the sector also show that, in the period 2009 – 2011, shelters were usually not full.

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With regard to undocumented migrant women, the State party informed that the shelters are open to all women (and their children) who need shelter at a secret location because they are in serious danger. It added, however, that who are in Belgium illegally cannot be accepted in State-run shelters. In 2010, 18.2 per cent of victims in shelters had no permanent residence permit. In 2011, the figure was 17.9 per cent. A daily fee is required to stay in a shelter. People who cannot pay can apply to a public social action centre (CPAS) to help them pay their fee. The CPAS may, on the grounds provided by law, refuse to pay on the basis of the person's residence status. If a woman is unable to pay the daily fee and the CPAS refuses to help, and if appeal proceedings are under way, the woman cannot be admitted to a shelter. However, some centres take a pragmatic approach to such situations, and if there is space and if the situation so requires, the centres pay for the accommodation from their own budgets and funds raised.

The Committee welcomes the information provided by the State party that the number of State-run shelters for victims of domestic violence has increased in the Walloon region in 2016. However, the Committee notes that there has been no increase in the capacity of shelters in the Flemish region since 2014, due to a shift in approach from specialized care in shelters to non-residential care which is tailored to the victim's needs and context. While noting the information provided by the State party that the shelters are open to all women, the Committee expresses concern about the financial and procedural obstacles to access these shelters, and regrets that the State party has not taken sufficient efforts to ensure that undocumented migrant women have non-discriminatory access thereto. It considers that the recommendation **has been partially implemented**.

In relation to the recommendation that the State party "amend the Aliens Law to grant temporary residence to migrant women who are victims of domestic violence who are undocumented or are awaiting their residence permits on the basis of family reunification and ensure that migrant women having residence permits as a result of family reunification, who are victims of domestic violence and want to leave their husbands, are not required to prove that they are employed, self-employed, or have sufficient means of subsistence to receive residence permits on their own. The State party should work to raise awareness among migrant women of the existence of the new legal provisions once they are adopted": The State party indicated that it has not amended its Act of 15 December 1980 (on the admission of aliens into the territory, residence, settlement and removal) to grant temporary residence to migrant women who are victims of domestic violence and who are undocumented or are awaiting their residence permits on the basis of family reunification. However, the Office for Aliens takes into account the information provided by women victims of conjugal violence to benefit from the protection clause, thus retaining her right to residence, before deciding whether to terminate her residence. In addition, under the Act of 15 December 1980, the victim may, depending on her situation, request asylum, which also takes into consideration the potential for conjugal violence. A residence permit may also be requested under exceptional circumstances. The State party moreover reported that a circular is being drafted on the retention of a right to residence obtained in the context of family reunification for victims of conjugal violence. It is designed to strengthen the rights of women migrants who are victims of conjugal violence by providing them with information on existing protection arrangements, including various services available.

The Committee welcomes the preparation of a draft circular to strengthen the rights of migrant women who are victims of domestic violence by providing them with information on protection measures and services that are available in the State party. The Committee however regrets that the circular has yet to be adopted and that the Aliens Law has not been amended. The Committee considers that the State party took some steps to implement the recommendation. It considers that the recommendation **has been partially implemented**.

The Committee recommends that, in relation to **paragraph 21** of the concluding observations, the State party provide, **in its next periodic report**, information on further actions taken to:

1. Ensure access to an adequate number of State-run shelters and non-residential care in the Flemish and Wallon region for women who are victims of violence and guarantee that all women, including undocumented migrant women, have non-discriminatory access thereto;
2. Expedite adoption of the circular to strengthen the rights of migrant women who are victims of domestic violence and amend the Aliens Law to grant temporary residence to migrant women who are victims of domestic violence, who are undocumented or are awaiting their residence permits on the basis of family reunification.
3. Ensure that migrant women having residence permits as a result of family reunification, who are victims of domestic violence and want to leave their husbands, are not required to prove that they are employed, self-employed, or have sufficient means of subsistence to receive residence permits on their own.
4. Raise awareness among migrant women of the existence of the new legal provisions once they are adopted.

With regards to the recommendation made in **paragraph 25** of the concluding observations, that the State party “Grant temporary residence permits to women and girls who are victims of trafficking, regardless of their ability or willingness to cooperate with prosecution authorities and to file a complaint”: The State party indicated that it considers cooperation with judicial authorities necessary to protect victims of trafficking and take effective action against traffickers. It also informed that the national action plan to combat human trafficking (2015 – 2019) provides for a new temporary document to be issued during the period of reflection for victims of human trafficking. It added that the new document no longer contains reference to the procedure concerning human trafficking, in order to guarantee the safety of the victim. This new document will be issued after the adoption by Parliament of the draft legislation amending article 61/2, paragraph 2 of the Act of 14 December 1980 and the royal order of implementation. The draft legislation was adopted unanimously on 26 October 2016.

The State party clarified that a victim of trafficking is not required to testify in order to benefit from protection measures. It also added that it is one of the few States that grant permanent residence to victims of trafficking, provided that prosecution has included this offence in its indictment.

The Committee welcomes the adoption on 26 October 2016 of a draft legislation amending the Act of 14 December 1980 to issue new temporary documents to victims of trafficking, allowing the victim to recover, escape from the influence of alleged perpetrators and decide whether or not to cooperate with competent authorities. However, the Committee regrets that the procedure to grant temporary residence permits has not been disconnected from their ability or willingness to cooperate with the authorities. The Committee considers that the recommendation **has been partially implemented**.

The Committee recommends that, in relation to paragraph 25 of the concluding observations, the State party provide, **in its next periodic report**, information on further actions taken to decouple the procedure to grant temporary residence permits to women and girls who are victims of trafficking from their ability or willingness to cooperate with prosecution authorities and to file a complaint.

Please accept, Excellency, the assurances of my highest consideration.

Yours sincerely,



Hilary Gbedemah
Rapporteur on follow-up
Committee on the Elimination of Discrimination against Women