



The League of Human Rights (LDH), French section, addresses the following recommendations to the UN Committee on Economic, Social and Cultural Rights:

- The LDH wishes to draw the attention of the Committee to the **evolution of unemployment benefits** :
 - First, in the federal budget agreement this summer, the federal government has reiterated its attention to strengthen the degression of unemployment benefits while the effects of the reform conducted in 2012 were catastrophic for social beneficiaries. Some ended up receiving nothing more than welfare recipients. As one researcher and professor of social security explains:

"At the latest then after four years of compensation, but potentially after 16 months - a year in the first period, followed by four months in the second period - intervenes the changeover in the third and final period. Unlike the two previous periods, this one is not limited in time. On the other hand, it is characterized, as we have said, by lump-sum compensation, decoupled from any reference to the remuneration previously received. **For heads of households and the isolated, the flat rate is slightly higher, by a few tens of euros, than the amounts of integration income, ie non-contributory social assistance**, while the flat rate applicable to the cohabitants, which already existed, remains lower than the benefit supposed to be the last safety net of existence ".¹ The previous reform was cast in the Royal Decree of 23 July 2012 amending the Royal Decree of 25 November 1991 on the regulation of unemployment in the context of the increased degression of unemployment benefits.²

¹ D. Dumont, « Dégressivité accrue des allocations de chômage *versus* principe de *standstill* », *J.T.*, n° 6541, 2013/39, pp. 769-776. December 1st 2018, the integration income amounted to a monthly amount to 1,254.82 € at the family rate, 910.52 € at the isolated rate and 607.01 € at the cohabiting rate. September 1st 2018, flat-rate unemployment benefits amounted to 1,271.14 € at the household headage rate, 1052.48 € at the isolated rate and 550.42 € at the cohabiting rate.

² In French : l'arrêté royal du 23 juillet 2012 modifiant l'arrêté royal du 25 novembre 1991 portant la réglementation du chômage dans le cadre de la dégressivité renforcée des allocations de chômage.

- Secondly, the federal government wants to introduce a community service (see the 2014-2019 federal government agreement) which provides that the unemployed person should in the future work for free on a so-called "community" service.³ Such a scheme has just been cancelled by the Belgian Constitutional Court in the matter of social assistance for a reason of distribution of powers. The Court also found that community service was not voluntary, contrary to the Government explanations. It also felt that it was difficult to distinguish between activities in this service and paid activities. The Court declared : "Activities which can be the object of a community service, which must constitute a positive contribution for society, cannot be distinguished, in all circumstances and by nature, from activities which may be the object of remunerated work. There is nothing to prevent the activities which may be performed as Community service from being able, if the financial resources are available, to be remunerated".⁴

Researchers have pointed out that this service could constitute forced labor. They also explained that the threat of a sentence - one of the criteria for estimating forced labor - could be realized with the federal government's unemployment insurance project:

"With regard to the federal government's plans for unemployment insurance, the threat of a sentence criterion will obviously be met if the refusal to participate in community service entails a suspension of unemployment benefits. The question will open the door to discussions if the government anticipates, in a positive way, that participation in these services makes it possible to avoid the degressivity of the amount of unemployment benefits. In such a case, the unemployed person who refuses to perform services to the community would, however, be deprived of this possibility. It seems to us, therefore, that the threat of a penalty is indeed present (...)"⁵

With regard to the General Comment No. 18 (The Right to Work - Article 6 of the Covenant) and to the General Comment No. 19 (Right to Social Security - Article 9 of the Covenant), we hope that the Committee will pay attention to that question.

- Thirdly, the LDH wishes to draw the Committee's attention to integration allowances (unemployment benefits granted on the basis of the studies to young people who did not open a right on the basis of the work):

The allowances of insertion have been reduced to three years. It excluded from this compensation 46.161 people between the beginning of 2015 and July 2018. The access to these allowances was also made more restrictive. In 2011, 37.270 young people reached the allowances of insertion, for only 16.541 in 2017, a decrease of more than 55 %, while the population of young people increased. We consider that only 20 % excluded or not admitted

³ *Doc. parl.*, Chambre, Déclaration de politique gouvernementale, 14 octobre 2014, n° 0020/001, pp. 28-29.

⁴ Cour const., arrest n°86/2018, 5 juli 2018, §B.29.1.

⁵ E. Dermine and V. De Greef, « Le droit au travail librement entrepris (art. 1er, § 2 de la CSE) face aux situations de travail non protégées par le droit social. Les cas du travail pénitentiaire et des mesures de workfare », *Actualités des droits sociaux fondamentaux*, in S. Van Drooghenbroeck, F. Dorssemont and G. Van Limberghen, Bruxelles, La Charte, 2016, pp. 309-343. See also : E. DERMINE, « Activation Policies for the Unemployed and The International Case Law on the Prohibition of Forced Labour », *Journal européen des droits de l'homme/European Journal of Human Rights*, vol. 1, n° 5, 2013, pp. 750-764.

people have obtained the social assistance. The great majority thus find themselves excluded from social protection and dependent on family solidarity or forced to manage things on their own.

- The LDH also wishes to draw the attention of the Committee to the **evolution of incapacity benefits**. Indeed, the federal government has repeatedly expressed its intention to introduce sanctions on sick people. In June 2018, an agreement would have been found but we do not have the text.⁶ A reduction in their incapacity benefits from 5 to 10% is envisaged if sick workers refuse to submit to a questionnaire to assess their work capacity or if they miss an interview as part of the assessment of their reintegration. Given the already low income they receive, these sanctions would seriously undermine their right to social security and the right to human dignity.
- The LDH wishes to draw the attention of the Committee to **the housing's problem**:
 - In Brussels, the housing is too expensive, as much as the point of view of the housing's quality as the point of view of the salaries. Furthermore, the social housing's policy is highly problematic: the number of social housing is insufficient in Belgium. In Wallonia, more than 39.000 households wait for a social housing. And the waiting time is four and a half years on average. In Brussels, 45.000 families (approximately 120.000 people) have to wait for a long time, sometimes until ten years. There are clearly too many requests for very few offers.
 - Despite the insistence of housing associations and the recommendations of your Committee in 2013, none of the Regional Housing Codes provide adequate protection (such as lump-sum compensation for tenants) against the frequent evictions (indeed, impunity prevails for the lessors).
 - Discrimination in housing remains a major problem. Research conducted in 2014 at the request of the Inter-federal Anti-Discrimination Center (UNIA) shows that, throughout Belgium, 42% of tested real estate agents fully accepted the lessor's request to exclude foreign prospective tenants. This figure increases to 61% when undesirable tenants are unemployed.⁷
- The LDH wishes to draw the attention of the Committee to social and economic problems related to **water and energy**:
 - The increasing debt of precarious people leads to an increase of water and power cuts-off - sometimes for several months - which are vital on a daily basis (for food, washing and heating).

⁶ See <http://www.presscenter.org/fr/pressrelease/20180518/promotion-de-la-reinsertion-socioprofessionnelle-des-travailleurs-salaries-en->

⁷ UNIA, Baromètre de la diversité – Logement, 2014, p. 210-213. Another study carried out in 2017, on discrimination on the private rental market in the Region of Brussels-Capital, indicates that about a third of real estate agents clearly agree to discriminate, the most discriminating criterion being the source of income (30 %). P. P. Verhaeghe, A. Coenen, S. Demart, K. Van der Bracht et B. Van de Putte, *DiscrimibruX - Discriminatie door vastgoedmakelaars op de private huurwoningmarkt van het Brussels Hoofdstedelijk Gewest*, Gent, Vakgroep Sociologie, Universiteit Gent, 2017.

In 2008, there were 99 water cuts for the Region of Brussels compared to 649 in the Walloon Region and 467 in the Flemish Region, according to the partial figures for Wallonia and Flanders given by the report from the association of Lutte contre la pauvreté (Fight against poverty)⁸. Since 2009, the cuts-off have increased considerably. In 2017, the number of water cuts-off of residential customers in the Brussels Region exceeded 1,000. Belgium, should adopt a law, like France (the "Brottes" law of 2013), prohibiting water cuts for residential customers.

- The spread of "smart metering", which is expected in the longer term for all audiences, is also likely to worsen the energy and water poverty of individuals. They do not offer sufficient guarantees against the limitation or the remote cut (by a simple technical gesture) of provision of water and energy. They also make the pricing system more complex.

- The LDH wishes to draw the attention of the Committee to the situation of **disabled persons**:

Discrimination affects people with disabilities in all areas of their lives. The efforts made by the State remain insufficient. For example, a royal decree of 11 August 1972 (stimulating the employment of disabled persons in the State administration) provides for a quota of recruitment of persons with disabilities in public administrations. At the federal level, this quota is set at 3%, but more than 30 years after its implementation, it is still not reached: in 2016, the rate of employment of people with disabilities throughout the public service Federal government was barely 1,44%.⁹

- The LDH wishes to draw the attention of the Committee to the **professional secrecy of social workers**:

In 2017, two federal legal provisions were adopted that have lifted social workers' professional secrecy in Social Security Institutions (SSI) (art. 46bis/1 Code d'Instruction criminelle) and in a multitude of first-line services (art. 458ter du Code pénal).

The first legal provision forces the SSI to transmit - at the request of the prosecutor - personal information about their users who's under an investigation but also, without any request, if the SSI believes there is a serious sign of a terrorist act on preparation.

This new provision breaches professional secrecy and compromises the essential trust relationship between the ISS and their users. This is an obstacle to the use and the missions of Social Security Institutions, which are essential for maintaining the collective solidarity and the access to social and economic rights.

The second legal disposition concerns the setting up of "consultations of cases" in the frame of the fight against organized crimes and terrorism. These consultations could associate public actors (ie administration, prosecutors and police services) and persons bound by professional secrecy (as social services). The effect of this legal disposition is here again to lift

⁸ Asbl Lutte contre la pauvreté, 2008-2009 Report, Brussels, 2009, p.173.

⁹ Commission d'accompagnement pour le recrutement des personnes avec un handicap dans la fonction publique fédérale, *Rapport d'évaluation 2016*, https://fedweb.belgium.be/fr/a_propos_de_l_organisation/administration_federale/mission_vision_valeurs/Egalite_des_chances_et_diversite/Les_projets/personnes_handicapees/carph.

professional secrecy of people who normally have the obligation to silence. For many actors on the ground, this lifting could have counterproductive effects: the person could not dare to confide anymore. A legal provision as large as this one could be highly inefficient in the preventive approach it's pretended to bring. The trust relationship between social workers and the citizen is the main tool social workers need to assure the access to social and economic rights.

- Finally, the LDH wishes to draw the Committee's attention to the highly vulnerable population group of very young (aged 16 to 25) single mothers, **asylum seekers and refugees**. The number of these young mothers - mainly originated from sub-Saharan African countries such as Guinea, Congo, Cameroon, Ivory Cost, Mali but also lately from Afghanistan, Iraq and Syria - has increased. They're all traumatized by violent family and political events. Most of them didn't choose their pregnancy. They suffer from PTSD, anxious and depressive symptoms. So far, we did not observed any political concern about their special needs and the needs of their children. They are hosted in centers where there is no professional specialist in neither motherhood neither childhood. When they obtain their refugee status, they live in social houses by their own with their babies. Being pregnant and/or with a child means they have difficult access to french or dutch classes. Their integration to social life in Belgium is then drastically deleted. The children don't benefit from any special care, being at the mercy of their mother's anxiety and deep emotional and social distress. Adding to these concerns, when they are still asking for international protection, being under aged, they have to submit to the sadly well known age test.¹⁰ But being pregnant, they can't have x rays. Then they have to wait to have given birth to pass the test. This make their waiting time for the procedure much longer then the other asylum seekers. So that, adding to the fact that they also have to wait that their children go to school, to have the opportunity to learn french/dutch and work, it puts them in an longer and deeper distress, often aggravating their depressive symptoms. This situation is very concerning both for these young women and for the psycho-emotional and social future of their children.

¹⁰ See <http://www.mineursenexil.be/files/Image/mena-Cadre-juridique/Estimation-de-l-age-as-printed.pdf>.