

**State obligations to respect, protect and fulfil children's rights in  
development cooperation  
- Case study: Belgium -**

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*Annex: recommendations*

**Introduction: international cooperation as an extraterritorial state obligation under the CRC**

The preamble and article 4 of the CRC, among other provisions, refer to international cooperation for the realization of economic, social and cultural rights. Whether this reference amounts to a *legal* obligation, in particular for States in the North, to respect, protect and fulfil economic, social and cultural rights also extraterritorially, and particularly in the South, is a matter of debate.<sup>1</sup>

In the debate on the existence, the nature and the extent of extraterritorial obligations, disproportionate attention has been paid to the extraterritorial obligation to fulfil (*i.e.* to provide development assistance, through the transfer of resources from North to South), while extraterritorial obligations to respect and to protect have been relatively neglected. In its concluding observations, the CRC Committee too has largely neglected extraterritorial obligations to respect and to protect economic, social and cultural rights of children in developing countries.

The CRC Committee has identified specific obligations for donor countries in relation to development cooperation. The recommendations to use the CRC as a framework for development cooperation and to mainstream a child rights perspective in all development programs and projects could easily be considered to flow from an obligation to respect, to protect and possibly to fulfil the rights of children in third countries. Quite remarkably, the Committee has frequently made recommendations on strengthening activities in the area of international cooperation and assistance, and on increasing the budget allocation for development cooperation, which mainly relate to the obligation to *fulfil-provide*. In justification and support of its recommendations on ODA and a prioritisation of social spending, the Committee has invoked States' political commitments – such as the ODA target of 0.7 per cent of GDP; the objectives of the Copenhagen 20/20 Initiative; and the recommendations of United Nations organs and specialized agencies.

**1. Obligations to respect and to protect: children's rights as a transversal theme in Belgian international cooperation**

Following the conference "Children('s rights) in Development Cooperation" organized by UNICEF Belgium, Plan Belgium and ECPAT Belgium in 2004, the Belgian federal Parliament has decided to **add "children's rights" as a transversal theme to the Belgian International Cooperation Act** (1999).<sup>2</sup> According to the amended Act, not only gender equality, environment and social economy, but also children's rights have to be taken into account in all sectors covered by Belgian bilateral development cooperation: primary health care, education, agriculture and food security, basic

<sup>1</sup> See contribution by Wouter Vandenhole "Is There a Legal Obligation to Cooperate Internationally for Development?".

<sup>2</sup> Also in the recently adopted Flemish Framework Decree on Development Cooperation, children's rights are taken up as one of the transversal themes.

infrastructure, and conflict prevention and strengthening of society. This is obviously entirely in line with the abovementioned CRC Committee's recommendations to mainstream children's rights in development cooperation.

The International Cooperation Act can be considered to be part of the domestic implementation of Belgium's obligations to respect and to protect children's rights extraterritorially: Belgium should not only itself respect children's rights in its acts and omissions, it should also ensure respect for children's rights by private persons, arguably including outside its territory (*i.e.* in its partner countries).

Pursuant to the amended International Cooperation Act, a **Strategic Note on children's rights in development cooperation** is being drafted by both governmental and non-governmental representatives, including UNICEF Belgium. Belgian diplomats, public officials and development workers can seek guidance in this Strategic Note, in which an introduction to the CRC is given, followed by both policy and technical guidelines for every sector of Belgium's development cooperation. The CRC's holistic nature is integrated in the Strategic Note by categorizing all guidelines according to the threefold "protection-provision-participation" approach.

**Example: projects and programs on education**

*The Strategic Note asks to support partner countries in their efforts to, inter alia:*

- *raise awareness in children's broad environment regarding violence and sexual abuse, whereby schools could play a central role (protection)*
- *provide pre-school education (provision)*
- *involve children actively in the educational environment, for instance via school boards (participation)*

It was decided by the drafters of the Strategic Note to include a set of general policy options that transcend sectoral concerns:

- the CRC must be at the base of Belgium's development cooperation, which means that the CRC Committee's General Comments need to be taken into account
- bilateral development cooperation should take into account the CRC Committee's Concluding Observations concerning the partner country at issue
- the Belgian report annually drafted on every partner country needs to include a review of the partner country's children's rights situation
- Belgium has to communicate the Strategic Note's guidelines to other donor countries active in its partner countries, working towards the harmonization of a children's rights dialogue between donor countries and partner countries
- Belgium has to recommend the Strategic Note's guidelines to its multilateral partners
- Belgium has to take up the Strategic Note's guidelines when determining funding for development cooperation NGOs

To monitor the implementation of the Strategic Note, UNICEF Belgium has, together with its partners ECPAT Belgium and Plan Belgium, taken the initiative to create a "**Platform on children's rights in development cooperation**". Not only children's rights NGOs but also development cooperation organizations and both academic and field experts are represented in the Platform, which wishes to give expert advice on children's rights in development cooperation to the Belgian authorities and NGOs alike.

Another practical tool for the mainstreaming of children's rights in development, is the **appointment of children's rights experts at government level**. Children's rights contact points created within the Minister of Development Cooperation's cabinet, the

development cooperation administration and the Belgian technical cooperation agency, should be experts in the field of children's rights in development cooperation. Thus, they can help governmental and non-governmental representatives whenever children's rights questions arise in the context of cooperation development.

## 2. Obligation to fulfil

In its General Comment No. 5 on Measures of Implementation, the CRC Committee encourages States parties receiving international aid to allocate a substantive part of that aid specifically to children. However, it has also argued that within development cooperation, children's rights "should feature prominently therein". It has rightly noted that Poverty Reduction Strategy Papers, for instance, "must include a strong focus on children's rights", urging development cooperation actors to "ensure that children are a prominent priority in the development of [PRSPs and SWAp]".

So on top of the explicit recommendation to States to allocate more of their budget to development cooperation, the CRC Committee's statements show that not only receiving but also donor countries need to **prioritize children's rights within development cooperation budgets**. This seems rather logical, since the realization of children's rights and the fight against poverty are mutually enforcing phenomena (*cf.* the fact that six out of eight Millennium Development Goals are directly linked to children).

UNICEF Belgium asks the Belgian government to allocate **at least 10% of its ODA to the advancement of children's wellbeing**. This is of course an absolute minimum, especially since more than half of the population living in developing countries consist of children. To be able to measure budget allocations, the Belgian development cooperation administration has established a **system of "markers"**, to be ticked off in the description of projects and programs, including their respective budgets. An overview of budgetary allocations per marker can thus be created. One of the markers being labelled "children", UNICEF Belgium believes it is indispensable to make a consistent and accurate use of this marker. Part of the mission of the Platform on children's rights in development, is therefore to **train all relevant professionals** to enable them to correctly recognize projects and programs with an impact on children and their human rights.

## Annex: Recommendations

UNICEF Belgium recommends the CRC Committee to recommend to States parties:

1. to amend their international cooperation legislation to include children's rights as a transversal theme underlying all international cooperation
2. to refer to the CRC and more in particular to the Committee's documents interpreting the CRC, including the Concluding Observations concerning States parties' partner countries, when negotiating and assessing development cooperation agreements
3. to encourage the establishment of informal platforms consisting of children's rights and development cooperation actors to assist authorities and NGOs in the mainstreaming of children's rights in development cooperation
4. to appoint children's rights experts at government level as contact points for governmental and non-governmental representatives
5. to set in place a "children's rights marker" in the handling of projects and programs, in order to be able to measure the amount of ODA allocated to children's and their human rights
6. to allocate at least 10% of their ODA to children's wellbeing