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Submission to the CESCR Committee

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**Alternative report submitted for a coalition of organisations  
by the Belgian Disability Forum asbl (BDF)  
Related to Belgium - 5<sup>th</sup> Periodic Report**

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## About the coalition represented by the Belgian Disability Forum asbl (BDF)

The Belgian Disability Forum asbl (BDF) is a non-profit organisation created in 2001. It has 18 member associations and defends the rights of about 250,000 persons with disabilities and their families<sup>1</sup>.

The BDF's mission is to monitor international developments that have an impact on the lives of Belgian persons with disabilities. In this respect, the BDF advocates for the effective implementation of international instruments ratified by Belgium and recommendations issued by international bodies.

This contribution is submitted by the BDF on behalf of 18 organisations representing persons with disabilities and 1 advisory body. You will find the list below. It was discussed and drafted on the basis of a participatory process that took place during the months of December 2019 and January 2020.

### 1) Organisations representing persons with disabilities :

- ALTÉO asbl (Mouvement social de personnes malades, valides et handicapées) <http://www.alteoasbl.be/>
- Association des Hémophiles et Malades de von Willebrand asbl (AHVH) <http://www.ahvh.be/fr/>
- Association Nationale d'Aide aux Handicapés Mentaux (ANAHM) <https://www.inclusion-asbl.be/> - <https://trefpuntstan.be/>.
- Association de Parents et de Professionnels autour de la Personne polyhandicapée asbl (AP<sup>3</sup>) <http://ap3.be/>
- Association Socialiste de la Personne Handicapée asbl (ASPH) <http://www.asph.be/Pages/default.aspx>
- Atingo <https://www.atingo.be/>
- Les Briques du GAMP asbl <https://www.gamp.be/fr/briques-du-gamp/a-propos>
- Doof Vlaanderen <https://www.doof.vlaanderen/>
- Fédération Francophone des Sourds de Belgique asbl (FFSB) <http://www.ffsb.be/>
- Katholieke Vereniging Gehandicapten vzw (KVG): <https://kvg.be/>
- Kleines Forum
- Landsbond van de Christelijke mutualiteiten / Alliance Nationale des Mutualités chrétiennes <https://www.cm.be/> - <https://www.mc.be/>
- Le Silex asbl <http://www.lesilex.be/>
- Ligue Braille asbl <https://www.braille.be/>
- Ligue Nationale Belge de la Sclérose en Plaques asbl (LNBSP) <http://www.ms-sep.be/fr>
- Œuvre Fédérale Les Amis des Aveugles et Malvoyants asbl <https://www.amidesaveugles.org/>
- Solidaris / Nationale Verbond van Socialistische Mutualiteiten <http://www.solidaris.be/Pages/Home.aspx> - <https://www.socmut.be>
- Vereniging Personen met een Handicap vzw (VFG) <https://www.vfg.be/Pages/Home.aspx>

### 2) Advisory body of persons with disabilities

- Conseil Supérieur National des Personnes Handicapées (CSNPH) / Nationale Hoge Raad voor Personen met een Handicap (NHRPH) <http://ph.belgium.be/fr/csnph.html>

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<sup>1</sup> <http://bdf.belgium.be/view/fr/index.html>

## 1 **Right to adequate housing (R.2):**

2 Housing plays a key role in society. For persons with disabilities, this has three major implications: to have  
3 the choice of his / her place of living, to have accessible housing and to have housing that corresponds to  
4 one's financial capacities.

### 5 Choosing one's place of living

6 For the Belgian Disability Forum asbl (BDF), this is a non-negotiable priority: the public authorities must  
7 finance living places in which the person with a disability can make his or her life choice<sup>2</sup>.

### 8 Accessible housing

9 The majority of housing does not meet adequate accessibility standards. This is a problem for persons with  
10 disabilities and it comes in contradiction with the postulate of home care advocated by public authorities.

11 Accessibility regulations are not strictly enforced. Many professionals are not trained in accessibility and  
12 'Design for All' should be integrated into the architects' core curriculum.

### 13 Accommodation in line with financial capacity

14 Access to housing is the first step to lift a person out of poverty, or to prevent a person from falling into  
15 poverty. For many persons with disabilities, it is impossible to find housing that meets their needs because  
16 their income is below the poverty line<sup>3</sup>. As a reminder, we are talking here about a group of the population  
17 which, depending on the calculation methods, represents 12 to 20% of the population!

18 Many persons with disabilities should therefore have access to housing in a "social housing society" in order  
19 to reduce their housing-related expenses - including heating, water and electricity - to a maximum of one  
20 third of their available monthly budget<sup>4</sup>.

21 Unfortunately, the social housing sector has been experiencing a housing shortage for years. In addition,  
22 there are two aggravating factors: these dwellings are generally poorly insulated and not very accessible.  
23 Moreover, the notion of "adaptable" housing is still not part of the specifications for their construction or  
24 rehabilitation<sup>5</sup>.

25 Belgium has a percentage of social housing well below the European average.<sup>6</sup>

26 This shortage is reflected in the existence of waiting lists for the allocation of social housing in the three  
27 constituent regions of federal Belgium. In 2016, the Flemish Region had 142,981 social housing units and  
28 137,177 households were on waiting lists; the Walloon Region had 101,589 social housing units and 39,464  
29 households were on the waiting lists of social housing companies; the Brussels-Capital Region had 36,117  
30 social housing units and the number of households on the waiting list was 39,153.<sup>7</sup>

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<sup>2</sup> <http://ph.belgium.be/fr/m-eacute-morandums-et-notes-de-position/la-d%C3%A9institutionnalisation-des-personnes-en-situation-de-handicap.html>

<sup>3</sup> This is to be seen in relation to the aspects dealt with below, under – Poverty (R.21), p.9.

<sup>4</sup> On average, in 2005, households with budgets below the poverty line spent 33.7% of their budget on these items. Of these, persons who are not fortunate enough to have social housing spent more than 50% of their available monthly budget on it, in *Qui sont les pauvres en Belgique?*, SPF Economie, 16/10/2007, p. 5-6,

[http://croco.solsoc.be/IMG/pdf/Qui\\_sont\\_les\\_pauvres\\_en\\_Belgique.pdf](http://croco.solsoc.be/IMG/pdf/Qui_sont_les_pauvres_en_Belgique.pdf)

<sup>5</sup> UNIA, *Baromètre de la diversité - Logement*, Bruxelles, 2014, p.273-275,

[https://www.unia.be/files/Documenten/Publicaties\\_docs/barometre\\_de\\_la\\_diversite\\_logement.pdf](https://www.unia.be/files/Documenten/Publicaties_docs/barometre_de_la_diversite_logement.pdf)

<sup>6</sup> The percentage of social housing as a proportion of the total housing stock varies greatly between the different EU countries.

Belgium is at 6.5% while France is at 18.7 and the Netherlands at 34.1%, in *Service de lutte contre la pauvreté, la précarité et l'exclusion sociale, Des faits et des chiffres: logements sociaux*, <https://www.luttepauvrete.be/des-faits-et-des-chiffres/des-faits-et-des-chiffres-logements-sociaux/>

<sup>7</sup> *Ibid.*

31 The average waiting period for the allocation of social housing in the Flemish Region for the year 2018 was  
 32 1,074 days<sup>8</sup>. In the Walloon Region, it is between 4.5 and 5 years!<sup>9</sup>.

33 The dilapidated state of social housing creates totally unacceptable situations for persons with a disability  
 34 and elderly persons. Many are totally inaccessible<sup>10</sup>. In 2018, 4 cases of long-term elevator defects were  
 35 reported. Some persons were thus unable to leave their homes for several months<sup>11</sup>.

36 Another important issue is the distribution of social housing throughout the country. This is particularly  
 37 noticeable in the Walloon Region<sup>12</sup>, but it is a reality in the Flemish Region and in the Brussels-Capital  
 38 Region as well<sup>13</sup>. So there is a huge structural imbalance, while disability knows no boundaries...

39 Between 2001 and 2015, the number of social housing units occupied by a household headed by a person  
 40 with a disability in the Walloon Region and the Brussels-Capital Region increased considerably, reaching  
 41 between 5.0%<sup>14</sup> and 12% of housing units, depending on the province<sup>15</sup>.

42 Moreover, the rent scale used in the Walloon Region has not been adapted for more than 15 years and does  
 43 not take into account the significant rent increases that have been made following the renovation of social  
 44 housing during this period<sup>16</sup>. An update of this scale is necessary.

45 Finally, a very important factor for many persons with a disability is the difficulty of access to public  
 46 transport. At this level, Belgium (18.7%) is slightly better than the European average (20.6%),<sup>17</sup> but this  
 47 result is relatively low given the size of the country and the high population density that characterises it. The  
 48 political priority does not exist: the SNCB has renewed in 2019 a purchase of M7 type carriages which do not  
 49 allow persons with a disability to access the train without outside help<sup>18</sup>. The life span of a car is at least 30  
 50 years! As regards bus and tram transport, despite some progress in recent years, many lines cannot be  
 51 considered accessible and interoperability between different public transport systems remains insufficient.

52 **Suggested Questions on Right to adequate housing:**

- 53 • What is planned by Belgium to increase the living spaces that enable the person with a disability to  
 54 achieve his or her life choice?
- 55 • Will Belgium take the necessary steps to include "Design for All" as a compulsory part of the  
 56 architectural curriculum?
- 57 • Will Belgium develop the necessary policies to bring existing social housing up to standard, in  
 58 terms of accessibility or adaptability?

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<sup>8</sup> *Ibid.*

<sup>9</sup> X., Wallonie Logement, *L'histoire*, <https://www.swl.be/index.php/component/content/article?id=481:l-histoire>

<sup>10</sup> X., *Les logements sociaux inaccessibles aux PMR*, in *La Dernière heure les sports*, 09/01/2020,  
<https://www.dhnet.be/regions/bruxelles/les-logements-sociaux-inaccessibles-aux-pmr-5e1632e49978e272f9b3237a>

<sup>11</sup> MUPOY (T.), *Logement social et ascenseur : des composantes indissociables ?* ASPH Analyse n°22, Bruxelles, 2018.  
<http://www.asph.be/SiteCollectionDocuments/Analyses%20et%20etudes/Analyses%20et%20etudes%202018/Analyse%20ASPH%20-%2022%20-%202018%20Logement%20social%20et%20ascenseur%20-%20des%20composantes%20indissociables.pdf>

<sup>12</sup> Province of Hainaut 48%, Province of Liège 35%, Province of Namur 8%, Province of Walloon Brabant 6% and Province of Luxembourg 3%, in: ANFRIE (M.-N.) and GOBERT (O.), *Les chiffres du logement public en Wallonie – 2016*, Charleroi, 2016, p.163.

<sup>13</sup> X., *Sociale huurwoningen van SHM's naar aantal slaapkamers per provincie*,  
[https://www.wonenvlaanderen.be/sites/wvl/files/wysiwyg/huurwoningen\\_shm\\_naar\\_provincie.pdf](https://www.wonenvlaanderen.be/sites/wvl/files/wysiwyg/huurwoningen_shm_naar_provincie.pdf)

<sup>14</sup> ANFRIE (M.-N.) and GOBERT (O.), *Op.cit., Loc.cit.*, p. 102.

<sup>15</sup> *Ibid*, p. 106-108.

<sup>16</sup> *Ibid*, p.130.

<sup>17</sup> X., *Moeilijk toegang tot openbaar vervoer (in%)*, in Wonen Vlaanderen, 2016,  
[https://www.wonenvlaanderen.be/sites/wvl/files/moeilijk\\_toegang\\_tot\\_openbaar\\_vervoer.pdf](https://www.wonenvlaanderen.be/sites/wvl/files/moeilijk_toegang_tot_openbaar_vervoer.pdf)

<sup>18</sup> CSNPH, *La SNCB condamne les passagers handicapés à plus de 30 ans de dépendance*, News, 23/12/2019,  
<http://ph.belgium.be/fr/nouvelles-amp-presse/la-sncb-condamne-les-passagers-handicap%C3%A9s-%C3%A0-plus-de-30-ans-de-d%C3%A9pendance.html> ; CSNPH, *Avis n° 2019/15*, <http://ph.belgium.be/fr/avis/avis-n%C2%B0-2019-15.html>

- 59 • Will Belgium develop the necessary policies to address the overall shortage of social housing and  
60 the resulting waiting lists?
- 61 • Will Belgium allocate the necessary budget to renovate existing social housing and enable persons  
62 with disabilities to find suitable and affordable adapted social housing?
- 63 • Will the Walloon Region update the rent scale in use for social housing?
- 64 • Will Belgium plan for independent accessibility for all persons with disabilities on all train, bus and  
65 tram networks and ensure interoperability of the networks?

#### 66 **National human rights institution (R.4) :**

67 A Federal Institute for the Protection and Promotion of Human Rights was established by the law of  
68 12/05/2019<sup>19</sup>. It will operate on the basis of residual competences, with the bulk of the matters remaining  
69 covered by the existing Institutions.

70 The BDF has no information on whether the situation of persons with disabilities has been properly taken  
71 into account by this new institution. The advisory councils of persons with disabilities have never been  
72 consulted on this matter, which contravenes the principles of Article 4.3 of the UNCRPD, which Belgium has  
73 ratified.

74 The Flemish government announced its intention to withdraw from UNIA (effective withdrawal in march  
75 2023). What impact will this have on the composition and functioning of the Institute?

#### 76 **Suggested Questions on National human rights institution:**

- 77 • What measures will Belgium put in place to implement its commitment to consult persons with  
78 disabilities and their representative organisations in all decision-making processes that affect  
79 them?
- 80 • What will be the concrete consequences on the functioning of the National human rights  
81 institution following Flanders' decision to withdraw from UNIA?

#### 82 **Obligation to act to the maximum of available resources (R.5,6)**

83 The fight against poverty and exclusion in Belgium is neither a national nor a regional<sup>20</sup> priority.

84 The BDF and its member organizations have little experience in international cooperation. With regard to  
85 development cooperation, it appears that little is being done to make Belgium's participation in cooperation  
86 processes conditional on respect for the principles of inclusion and accessibility, particularly of persons with  
87 disabilities.

#### 88 **Suggested Questions on Obligation to act to the maximum of available resources:**

- 89 • What international cooperation programs does Belgium plan to develop to promote the rights of  
90 persons with disabilities abroad?
- 91 • How does Belgium ensure that all cooperation programs in which it participates respect the rights  
92 of persons with disabilities and include their representative organizations when these programs  
93 affect their lives?

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<sup>19</sup> [http://www.ejustice.just.fgov.be/cgi\\_loi/change\\_lg.pl?language=fra=Fn=2019051210able\\_name=loi](http://www.ejustice.just.fgov.be/cgi_loi/change_lg.pl?language=fra=Fn=2019051210able_name=loi)

<sup>20</sup> Service de lutte contre la pauvreté, la précarité et l'exclusion sociale (2019). *Durabilité et pauvreté*. Contribution au débat et à l'action politiques. Rapport bisannuel 2018-2019. Bruxelles, 2019, *Passim*, <https://www.luttepauvrete.be/wp-content/uploads/sites/2/2019/12/Durabilite-et-Pauvrete-Rapport-bisannuel.pdf>

- 94 • Does Belgium offer means to enable persons with disabilities to participate in international  
95 exchanges?

## 96 **Sustainable development objectives (R.9) :**

97 On 5 June 2017, the BDF sent its comments to the UN Secretariat on how Belgium is fulfilling its  
98 commitments to sustainable development. He particularly pointed out the following aspects in the  
99 voluntary report from Belgium :

- 100 • Very succinct consideration for the situation of persons with disabilities  
101 • A few references to the notions of accessibility and inclusion, but without any real in-depth  
102 reflection  
103 • Overall, the voluntary report gave the impression of a juxtaposition of disparate measures without  
104 any real planning  
105 • The luxurious presentation was probably intended to give a positive image of Belgium rather than  
106 to present a coherent content reflecting a duly elaborated political project

107 At this year's Sustainable Development Forum organized by the competent Federal Minister, the workshop  
108 on the evaluation of the implementation of these objectives taught us that the Planning Office and the  
109 Prime Minister's Office are not equipped to carry out an effective evaluation of the implementation of these  
110 objectives.

111 In the same sense, the answer given here by the Belgian State is limited to the congruent portion: the  
112 inclusion in Article 7bis of the Constitution. So it's pure formalism.

## 113 **Suggested Questions on Sustainable development objectives:**

- 114 • Belgium has to report on the implementation of the 242 concrete criteria. How will Belgium carry  
115 out a structured and permanent involvement of persons with disabilities in order to allow a needs-  
116 based implementation?  
117 • How will it associate the BDF and the federal and federated disability advisory councils with UN  
118 reporting exercises?

## 119 **Non-discrimination (R.10,11) :**

120 The questions focus specifically on certain groups that are discriminated against, but do not specifically  
121 address discrimination against persons with disabilities.

122 Belgium therefore provides no explanation for the situation of persons with disabilities, whereas in all UNIA  
123 reports, discrimination against persons with disabilities appears in first or second place in terms of the  
124 number of reports.<sup>21</sup> Lack of accessibility and lack of reasonable accommodation are largely responsible for  
125 this<sup>22</sup>.

126 Belgium has been a European pioneer in anti-discrimination legislation<sup>23</sup>. The practical implementation of  
127 these laws remains extremely difficult to achieve, especially for persons with disabilities<sup>24</sup>.

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<sup>21</sup> UNIA, *Rapport chiffré 2018. Renouer avec les droits humains*, Bruxelles, 2019, Graphique 17, p.16,  
<https://www.unia.be/fr/publications-et-statistiques/publications/rapport-chiffres-2018>

<sup>22</sup> *Ibid*, p. 32, 35, 38, 52, 64, 73.

<sup>23</sup> Laws transposing EU Directives 2000/43 and 2000/78.

<sup>24</sup> TULKENS (Fr.), BOSSUYT (M.) *et alia*, *Premier rapport d'évaluation de la Commission d'évaluation de la législation fédérale relative à la lutte contre les discriminations*, Février 2017, p. 121, <https://www.unia.be/files/Documenten/Aanbevelingen->

128 Even if reasonable accommodation is formalised in regulations, its use for the inclusion of persons with  
129 disabilities remains rare due to the lack of clarity on what is "reasonable". This is particularly the case in  
130 private and public employment and in education<sup>25</sup>.

131 The BDF wants to highlight the reality of disability by association. The parents and relatives of a person with  
132 a disability often have to invest time and energy to support him or her in their daily life, school or work and  
133 risk being blocked in their professional, social and cultural life...

134 So far, Belgium does not recognise the concept of cross-discrimination. While women with disabilities are  
135 discriminated against as women and as persons with disabilities. At present, they have to choose which  
136 ground of discrimination they wish to report, even though they are victims on both.

137 A series of rights and services are only accessible to persons with disabilities if they have been recognised as  
138 such before their 65th birthday: tax or social compensation, reimbursement for adaptation or rehabilitation,  
139 etc. This constitutes cross-discrimination on the basis of age. So far, only the German-speaking Community  
140 has abolished this discrimination.

#### 141 **Suggested Questions on Non-discrimination:**

- 142 • What concrete measures does Belgium plan to take to ensure the implementation of the  
143 reasonable accommodation provided by law for persons with disabilities in all regulations? What  
144 systematic initiatives for training in reasonable planning have been developed at all levels of  
145 federal Belgium, including the municipal level? What are the results of these trainings? How are  
146 they evaluated?
- 147 • What measures does Belgium intend to implement to ensure that persons with disabilities can  
148 access goods and services on an equal footing with all citizens and throughout Belgium?
- 149 • Does Belgium intend to introduce the concepts of cross-discrimination and disability by  
150 association in its non-discrimination legislation?
- 151 • What concrete measures does Belgium plan to take to eliminate any difference in treatment in the  
152 intervention of public services depending on whether the intervention was requested by a person  
153 whose recognition as a person with a disability took place before or after his 65th birthday?

#### 154 **Right to work (R.12-13)**

155 In 2011, the employment rate of persons with disabilities (40.7%) was significantly lower than the national  
156 average (66.4%<sup>26</sup>), placing Belgium among the last countries of the European Union<sup>27</sup>. Since then, this gap  
157 has not diminished. The question of access to employment for persons with disabilities has been the subject  
158 of a position paper by the *Conseil Supérieur National des personnes handicapées*<sup>28</sup>. It gives a complete  
159 picture of the situation and identifies 3 types of problems:

- 160 ○ the particular difficulty for persons with disabilities in finding employment
- 161 ○ the lack of social responsibility of employers
- 162 ○ the existence of "employment traps" which prevent many persons with disabilities receiving

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[advies/Commission d'evaluation de la législation fédérale relative à la lutte contre les discriminations.pdf](#)

<sup>25</sup> UNIA, *Rapport annuel 2017*, p.24-26; UNIA, *A l'école de ton choix avec un handicap* <https://www.unia.be/fr/publications-et-statistiques/publications/lecole-de-ton-choix-avec-un-handicap-les-amenagements-raisonnables-dans-lenseignement>

<sup>26</sup> Conseil supérieur de l'emploi, *Rapport 2017*. <http://www.emploi.belgique.be/publicationDefault.aspx?id=46240>

<sup>27</sup> X, *Moins d'1 adulte handicapé sur 2 avait un emploi dans l'UE28 en 2011*, in, *Eurostat 184/2014*, News Release 2/12/2014, <http://ec.europa.eu/eurostat/documents/2995521/6181600/3-02122014-BP-FR.pdf/55394f4c-1dea-4d3d-a9bd-6fc936455d03>

<sup>28</sup> Conseil Supérieur National des Personnes Handicapées, *Emploi des personnes handicapées : note de position*, Janvier 2014, <http://ph.belgium.be/media/static/files/2014-01-14---note-position-emploi.pdf>



163 benefits from "taking the risk" of taking up a job

164 The BDF notes that no comprehensive and coordinated policy has been put in place to effectively address the  
 165 low employment rate of persons with disabilities.

166 The main result of the "Back to Work" measures developed by the federal government is not to put persons  
 167 back to work but to lay them off<sup>29</sup>...

168 The concept of reasonable accommodation is not adequately addressed in the workplace. It is only partially  
 169 binding and employers tend to ignore it. This is particularly the case for persons who wish to return to work  
 170 after a period of illness or accident<sup>30</sup>.

171 Compartmentalisation between public bodies also poses a problem: in the Walloon Region, for instance, a  
 172 person with a disability receiving income replacement benefits cannot access training courses organised by  
 173 *FOREM* (Public Employment and Training Service) because he or she is not considered a "jobseeker".

174 The employment rate of persons with disabilities in Belgium remains significantly lower than for other  
 175 population groups. Belgium is even in the penultimate place in Europe according to the Belgian national  
 176 report carried out within the framework of the European Semester<sup>31</sup>. Furthermore, *Statbel* has published a  
 177 statistic showing that only 23% of recognised persons with disabilities in Belgium are in employment<sup>32</sup>... The  
 178 systems of incentives for the employment of persons with disabilities have not been able to increase the  
 179 employment rate of persons with disabilities.

180 Quotas for the employment of persons with disabilities in the civil service exist in all the entities of federal  
 181 Belgium as well as in the local entities, with varying percentages. In practice, they are never reached, except  
 182 by municipalities.

183 At the Flemish level, the member organisations of the BDF denounce the policy of the VDAB which,  
 184 according to a strict inclusive logic, drowns persons with disabilities in the mass of jobseekers and no longer  
 185 allows for specialised support.

186 As for the recent "positive action" order, it is too early to assess its effects. But employers will have to get  
 187 involved in the process, which is not a certainty.

188 The system of Adapted Work Enterprises (ETAs) in place for the last 20 years has enabled workers in these  
 189 enterprises to obtain the guaranteed minimum wage, which is a good thing. On the other hand, the related  
 190 profitability constraint has created perverse effects unfavourable to the retention of the most severely  
 191 persons with disabilities in ETAs.

192 **Suggested Questions on Right to work:**

193 • What concrete measures, both regulatory and incentive, does Belgium provide for to guarantee  
 194 the right to employment for persons with disabilities, in the private and public sectors, by ensuring  
 195 effective protection against discrimination, continuing vocational training, adequate accessibility  
 196 and the necessary reasonable accommodation? What measures will the Commission take to  
 197 ensure compliance with employment quotas in the public sector?

<sup>29</sup> Conseil national du Travail, *Avis n° 2099*, p.10-11, <http://www.cnt-nar.be/AVIS/avis-2099.pdf>

<sup>30</sup> Conseil Supérieur National des Personnes Handicapées, *Avis n° 2015/10 relatif au projet d'Arrêté Royal pris en exécution de l'article 153 de la Loi programme du 19 décembre 2014*, <http://ph.belgium.be/fr/avis/avis-2015-10.html> et *Avis n° 2016/12 relatif aux nouveaux trajets de réinsertion professionnelle, avis « Back to work »*, <http://ph.belgium.be/fr/avis/avis-2016-12.html>

<sup>31</sup> [https://eur-lex.europa.eu/legal-content/FR/TXT/PDF/?uri=CELEX:32018H0910\(01\)&from=EN](https://eur-lex.europa.eu/legal-content/FR/TXT/PDF/?uri=CELEX:32018H0910(01)&from=EN)

<sup>32</sup> X., *23% of people with disabilities have a job*, in *Statbel Belgium in figures*, 29/11/2018, <https://statbel.fgov.be/en/news/23-people-disabilities-have-job>



- 198 • Given the low employment rate of persons with disabilities, what does Belgium plan to do to  
199 improve the effectiveness of its employment policies? What is it doing to promote the transition  
200 from sheltered to regular employment from an inclusive perspective?
- 201 • What concrete measures does Belgium plan to take to identify and remove "obstacles to  
202 employment" and "employment traps" existing in the various laws and regulations?
- 203 • What are the actual return to employment figures for persons recognized as "with disabilities"?  
204 What concrete measures does Belgium intend to take to remedy the situation generated by the  
205 'back to work' measures, the result of which is not a return to employment but the dismissal of the  
206 persons concerned? What has Belgium done to support reasonable accommodation in  
207 employment? What is Belgium doing to help persons with disabilities turn sheltered employment  
208 into a stepping stone to mainstream employment?

## 209 **Violence against women and children (R.20)**

210 More than half of the persons represented by the BDF are women with disabilities.

211 BDF member organisations regularly receive testimonies from women with disabilities reporting ill-treatment  
212 and even violence, including sexual violence. Unfortunately, it is usually impossible to obtain testimony, let  
213 alone for victims to file a complaint.

214 There are many reasons for this. Many women with disabilities who are victims of violence are :

- 215 ○ in a situation of dependency on the perpetrator: family members, persons of trust, institutional or  
216 school staff, care staff, etc.
- 217 ○ uninformed of their rights
- 218 ○ poorly trained, or even totally ignorant about emotional and sexual life to the point where they do  
219 not realize what is normal or abnormal, acceptable or unacceptable
- 220 ○ submitted to "forced medication", including birth control pills and even sterilization... which in some  
221 cases may mask the consequences of sexual abuse.

222 In 2019, the BDF took knowledge of the étude de la professor Tina Goethals, *Sexually oriented violence among*  
223 *women with disabilities in Flanders*<sup>33</sup>. The content of this study is scary.

224 This is a university study. So it has a scientific value. It depicts very clearly the realities of life. Unfortunately,  
225 it only exists in Dutch and there is no similar study for the Walloon Region or the Brussels Capital Region.  
226 However, the testimonies received, under cover of anonymity, by our member organisations of these two  
227 entities are proportionally as numerous. It is therefore reasonable to assume that the situations experienced  
228 there are just as horrific.

229 In the BDF's view, this would justify the authorities finally taking these realities seriously and taking action to  
230 put an end to the ill-treatment suffered by women with disabilities in Belgium, including the practice of forced  
231 contraception and even sterilization without informed consent.

232 On the other hand, action must be taken to put an end to the situations of financial and material dependence  
233 of women with disabilities: these situations are fostering secrecy and impunity of the perpetrators, which  
234 make possible abuses of power and breaches of trust.

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<sup>33</sup> Dr. GOETHALS (T.), Prof. Dr. VAN HOVE (G.), Prof. Dr. VANDER LAENEN (F.), *Seksueel georiënteerd geweld bij vrouwen met een beperking in Vlaanderen 2018. Onderzoek in opdracht van Vlaams Minister van Gelijke Kansen in de periode 2014-2019, uitgevoerd in 2016-2017*, Gent, 2018.

<https://www.gelijkekansen.be/Portals/GelijkeKansen/Documents/Rapportseksueelgeweldvrouwenhandicap.pdf>

235 Finally, the BDF considers that the way in which children with disabilities are treated, trained and  
236 accompanied is not acceptable in view of the country's level of development.

237 This is the case with the mechanisms for accompaniment, support, communication and identification of  
238 persons of trust, including sign languages and easy reading and understanding: they are not sufficiently  
239 developed and place children in situations of suffering.

240 The same applies to school transport. In order to attend school at the school of their choice, some children  
241 with disabilities spend more than 2 hours a day on school transport. *UNIA, La Ligue des Familles* and the  
242 Delegate for the Rights of the Child proposed specific ways of improvement. So far, the solutions remain  
243 totally insufficient<sup>34 35 36</sup>.

#### 244 **Suggested Questions on Violence against women and children:**

- 245 • What concrete measures does Belgium plan to take to support and assist women and girls with  
246 disabilities who are victims of indecent assault or rape, in various forms and with different  
247 intensities?
- 248 • Do women and girls with disabilities have free access to relevant information and training in sexual  
249 health and emotional literacy?
- 250 • What concrete steps does Belgium plan to take to implement policies that will improve children's  
251 learning to choose and thus increase their ability to make choices throughout their lives?
- 252 • What concrete measures does Belgium plan to take to ensure that children with disabilities are  
253 properly and adequately cared for from an early age?
- 254 • What concrete measures does Belgium plan to take to promote inclusion and provide an effective  
255 solution to the long hours spent by children with disabilities in school transport in order to receive  
256 the help they need?

#### 257 **Poverty (R.21)**

258 The extent of the phenomenon is known: a large majority of Belgian persons with disabilities live below the  
259 poverty line.

260 The European objective set for Belgium in 2020 will obviously not be achievable. On the contrary, the  
261 situation is getting worse!

262 In its National Reform Plan (NRP) 2010, Belgium stated "...Belgium has the ambition that by 2020, 380,000  
263 persons will no longer face the risk of poverty and social exclusion compared to the reference year (2008)<sup>37</sup>".  
264 The BDF notes that this is far from being the case.

265 In 2016, the Court of Audit was very critical of the 2<sup>nd</sup> Federal Plan to Combat Poverty: "... Any gaps in the  
266 plan: mobilization of administrations, contribution of the plan to the achievement of the national objective,

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<sup>34</sup> X., *Des pistes concrètes pour améliorer le transport scolaire en Wallonie et à Bruxelles*, UNIA, 09/03/2019,  
<https://www.unia.be/fr/articles/des-pistes-concretes-pour-ameliorer-le-transport-scolaire-en-wallonie-et-a>

<sup>35</sup> X., *Et si votre enfant est dans l'enseignement spécial...*, in *Le Ligueur des Parents*, 07/09/2017.  
<https://www.laligue.be/leligueur/articles/transport-scolaire-et-handicap-on-passe-a-l-action>

<sup>36</sup> X., *E-Mobile. Tu fais Paris-Bruxelles en 1h18, je fais maison-école en 3h*, UNIA, 7/03/2019,  
<https://www.youtube.com/watch?v=t3JIHQHHKsc>

<sup>37</sup> *Plan National de Réforme 2010*, page 31, [http://ec.europa.eu/europe2020/pdf/nrp/nrp\\_belgium\\_fr.pdf](http://ec.europa.eu/europe2020/pdf/nrp/nrp_belgium_fr.pdf).

267 no deadline, no overall budget allocation, no estimate of the cost of objectives or actions. In short, the  
 268 second anti-poverty plan is more of a "list of actions" than a public policy instrument...<sup>38</sup>.

269 The *Conseil Supérieur National des Personnes Handicapées* has made the same observation concerning the  
 270 3<sup>rd</sup> Federal Plan to Combat Poverty 2016-2019<sup>39</sup>: the fight against poverty is not a priority for Belgium<sup>40</sup>. On  
 271 the contrary, poverty is on the rise and is also spreading to some workers, especially those with  
 272 disabilities<sup>41</sup>.

273 The complexity of the administrative system regularly results in persons with disabilities not having the  
 274 necessary documents to prove that they are in order at the administrative level<sup>42</sup>. For persons with  
 275 disabilities, the system for recognizing their situation has become particularly complex. It has been adapted  
 276 in successive touches to solve the problems but should be reviewed as a whole in the interests of  
 277 simplification and efficiency.

278 The Disability Allowances Act dates from 27 February 1987. It has been modified several times. However, no  
 279 fundamental reform has been undertaken. Numerous changes have been made over the years and have  
 280 resulted in a disparate, complex and opaque set<sup>43</sup>. The law does not meet the requirements of the UNCRPD  
 281 and needs to be completely rewritten.

282 A significant number of persons with disabilities living in Belgium do not have sufficient income to achieve a  
 283 satisfactory standard of living. The income replacement allowance (ARR) for a single person is 20% below  
 284 the poverty line and almost 60% below the guaranteed minimum wage (as of 01.09.2018, ARR= 910,75€;  
 285 poverty line = 1139€; minimum wage = 1.562,59€).

286 40% of persons receiving a disability allowance in Belgium actually live below the poverty line<sup>44</sup> and suffer  
 287 many hardships, including the most basic needs (food, housing, health care, etc.).

288 This is all the more cruel because living with a disability entails additional costs due to an inaccessible  
 289 environment. Taking into account the cost of living has a greater impact on the budget of a person with a  
 290 disability, even though he or she often has a lower level of income.

291 During the years 2016-2018, the General Directorate persons with disabilities of the Federal public service  
 292 social security experienced serious computer problems which, combined with a shortage of staff, led to very  
 293 significant delays in the management of allowance files. In 2020, thousands of files are still more than six  
 294 months late in being processed.

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<sup>38</sup>X, *La Cour des comptes tacle sévèrement la Belgique, incapable de réduire la pauvreté*, RTBF, 15/07/2016,  
[https://www.rtb.be/info/belgique/detail\\_la-cour-des-comptes-tacle-severement-la-belgique-incapable-de-reduire-la-pauvrete?id=9354244](https://www.rtb.be/info/belgique/detail_la-cour-des-comptes-tacle-severement-la-belgique-incapable-de-reduire-la-pauvrete?id=9354244)

<sup>39</sup> Conseil Supérieur National des Personnes Handicapées, *Avis n° 2016/09, relatif au projet de troisième Plan fédéral de lutte contre la pauvreté*, 4/4/2016, <http://ph.belgium.be/fr/avis/avis-2016-09.html>

<sup>40</sup> Conseil Supérieur National des Personnes Handicapées, *Opinion n°2018/30 on the report "The evolution of social protection in Belgium 2018*, p.109-113 (<http://ph.belgium.be/fr/avis/avis-2018-30.html>)

<sup>41</sup> SPF Sécurité sociale, *Les tendances se confirment : le risque de pauvreté diminue pour les personnes âgées mais reste élevé chez les personnes peu qualifiées en Belgique*, Communiqué de presse sur l'enquête *Silk*, 26/08/2016.  
<https://socialsecurity.belgium.be/fr/news/le-risque-de-pauvrete-diminue-pour-les-personnes-agees-mais-reste-eleve-chez-les-personnes-peu>

<sup>42</sup> Conseil Supérieur National des Personnes Handicapées, *Note de position sur les dispositifs financiers*, Janvier 2014  
<http://ph.belgium.be/fr/th%C3%A8mes-cl%C3%A9s/note-de-position-dispositives-financiers.html>

<sup>43</sup> Conseil Supérieur National des Personnes Handicapées, *Avis 2014/04 relatif à la décision du Conseil des ministres du 19/12/2013 " 5 fondamentaux pour améliorer et simplifier la vie des personnes handicapées "* (<http://ph.belgium.be/fr/avis/avis-2014-04.html>)

<sup>44</sup> Handilab, *Synthèse du projet d'étude "Handilab". Position socioéconomique des personnes handicapées et effectivité des allocations aux personnes handicapées*, Leuven, 2012, p.18.

[http://www.belspo.be/belspo/organisation/Publ/pub\\_ostc/agora/ragkkk154samenv\\_en.pdf](http://www.belspo.be/belspo/organisation/Publ/pub_ostc/agora/ragkkk154samenv_en.pdf)

295 There is a growing phenomenon of "non-take-ups" (persons who do not assert their rights due to lack of  
296 information or misunderstanding). Persons with disabilities are no exception. This phenomenon also distorts  
297 existing statistics<sup>45</sup>.

298 The *Conseil Supérieur National des Personnes Handicapées* participated in the "Poverty and Disability"  
299 collection produced by the Federal public service social security. This was published on 3 December 2019. In  
300 266 pages, it gives a striking picture of the multidimensional reality of disability in relation to poverty in  
301 Belgium. The findings of the survey are similar to those that have been carried out for years by  
302 representative organisations of persons with disabilities.

303 The study concludes by proposing the development of structural measures based on the development of a  
304 generic poverty policy and specific measures for disability situations (selectivity within universality):

- 305 • Generic measures to combat poverty
  - 306 ○ Measures for a structural fight against poverty
  - 307 ○ Increase in minimums combined with the elimination of employment traps
  - 308 ○ Improvement of the employment situation
  - 309 ○ Compensatory measures: housing, health care, child care, vocational support and education
  - 310 ○ Re-examining the negative impact of cohabitation
- 311 • 4 blocks of disability-specific measures
  - 312 ○ (1) Better income protection
    - 313 ■ Raising the Income replacement allowance to the level of the EU poverty line
    - 314 ■ Thorough review of the evaluation criteria and their application
    - 315 ■ Further reduction of the "price of love" and the "price of work"
    - 316 ■ Simplification of the granting procedure
  - 317 ○ (2) Full citizenship: monitoring social participation
    - 318 ■ Not only the financial situation, but also the standard of living achieved, the degree
    - 319 of freedom of choice and social participation.
    - 320 ■ Continued development of the "handistreaming" plan
    - 321 ■ Indicators integrating the "disability" dimension
    - 322 ■ Persons in collective households
    - 323 ■ Need for an inter-federal approach
  - 324 ○ (3) Labour market participation as a positive measure
    - 325 ■ Reducing employment traps
    - 326 ■ Identify and eliminate the perverse effects of reintegration
    - 327 ■ Feasible work for persons with disabilities
  - 328 ○ (4) Decrease in non-use
    - 329 ■ More proactive approach and greater proximity (*outreach*) to front-line services
    - 330 ■ The use of digital technologies is not a miracle solution
    - 331 ■ Simplification and acceleration of granting procedures
    - 332 ■ Reduction of the "Matthew effect" in the field of care and assistance
    - 333 ■ Specific attention to persons with an immigrant background

334 At the beginning of 2020, the increase in the costs of banking services has been compounded: the main  
335 banks active on the Belgian market have decided to increase the pricing of a series of basic operations  
336 carried out by hand, to close more and more branches and to abolish terminals. All this is done to the

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<sup>45</sup> Conseil Supérieur National des Personnes Handicapées, *Avis 2018/09 relatif au rapport bruxellois sur l'état de la pauvreté 2016*,  
<http://ph.belgium.be/fr/avis/avis-2018-09.html>

337 detriment of the most precarious persons and without taking into account the notions of "minimum  
338 service" and "reasonable accommodation" .<sup>46</sup>

### 339 **Suggested Questions on Poverty:**

- 340 • Is Belgium going to use the Poverty and Disability compendium as a basis for finally building the  
341 necessary and integrated policies to reduce the risk of poverty for persons with disabilities in  
342 Belgium as quickly as possible?
- 343 • Will Belgium develop a sustainable and generic poverty policy and specific measures for disability  
344 situations (selectivity within universality)?
- 345 • What concrete measures, action plan and timetable does Belgium envisage to increase the  
346 amount of benefits for persons with disabilities so that they provide everyone with an adequate  
347 income at least equal to the amount of the guaranteed minimum wage established at Belgian  
348 level?
- 349 • What concrete measures does Belgium plan to take over the next four years to set up a system of  
350 benefits for persons with disabilities based on a combination of criteria for participation in society  
351 and medical criteria that will enable better account to be taken of both the reality of the lives of  
352 persons with disabilities and the need for objectification desired by the State?
- 353 • What concrete measures does Belgium plan to take to make social protection measures more  
354 readable and to eliminate cases of "non-take-up"? What rights are not automatically granted and  
355 what does Belgium provide for automating them?
- 356 • What steps will Belgium take to ensure that the Disabilities Branch has the necessary computer  
357 and human resources to process cases efficiently and quickly, and to ensure adequate access to  
358 telephone and electronic services for both persons with disabilities and social services?

### 359 **Right to physical and mental health (R.25)**

360 Since 2000, the desire to "rationalize" and economize in the field of health has increased the imbalances in  
361 medical supply between the different sub-regions of the country. This is particularly true for rural areas. The  
362 overall ageing of health care providers, especially<sup>47</sup> general practitioners, the rationalisation of the hospital  
363 network and the<sup>48</sup> ageing of the population further accentuate these imbalances<sup>49</sup>. The current trend is  
364 therefore likely to have particularly detrimental effects on the most economically vulnerable patients and  
365 on patients with disabilities.

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<sup>46</sup> Conseil Supérieur National des Personnes Handicapées, *Augmentation des tarifs bancaires au 1/1/2020*, Avis 2020/01, sera publié sur le site du CSNPH le 05/02/2020, <http://ph.belgium.be/fr/avis.html>

<sup>47</sup> TABANKIA (A.), Les médecins généralistes restent assez âgés en Wallonie, dans *RTBF info*, [https://www.rtb.be/info/societe/detail\\_les-medecins-generalistes-restent-assez-ages-en-wallonie-carte-interactive?id=10288318](https://www.rtb.be/info/societe/detail_les-medecins-generalistes-restent-assez-ages-en-wallonie-carte-interactive?id=10288318) ; RTBF, *La Première*, Soir Première, 30/01/2019, [https://www.rtb.be/auvio/detail\\_cqfd-medecins-generalistes-pourquoi-cette-penurie-en-wallonie?id=2453670&jwsourc=fb&fbclid=IwAR1ZYT19f0MddH\\_i-LwbccEDbn6wnky5b6jFGYxCzOWIrNOM1ZBxeqBYczE](https://www.rtb.be/auvio/detail_cqfd-medecins-generalistes-pourquoi-cette-penurie-en-wallonie?id=2453670&jwsourc=fb&fbclid=IwAR1ZYT19f0MddH_i-LwbccEDbn6wnky5b6jFGYxCzOWIrNOM1ZBxeqBYczE)

<sup>48</sup> INAMI, *Réorganiser le paysage hospitalier et le financement des hôpitaux*, 09/01/2020,

<https://www.inami.fgov.be/fr/professionnels/etablissements-services/hopitaux/financement/Pages/default.aspx>

<sup>49</sup> CHAPELLE (A.), Morel (M.) et Regueras (N.), *La performance des soins de santé en Belgique : une analyse des études récentes*, dans *MC-Informations Analyses et points de vue*, n°265, septembre 2016, p. 3-25, [https://www.mc.be/media/mc-informations\\_265\\_septembre\\_2016\\_tcm49-33135.pdf](https://www.mc.be/media/mc-informations_265_septembre_2016_tcm49-33135.pdf) ; VRIJENS (F.) et alia, *La performance du système de santé belge. Rapport 2015*, KCE Report 259B, Bruxelles, 2015,

[https://kce.fgov.be/sites/default/files/atoms/files/KCE\\_259B\\_rapportperformance2015\\_1.pdf](https://kce.fgov.be/sites/default/files/atoms/files/KCE_259B_rapportperformance2015_1.pdf)

366 Beyond the physical (buildings, equipment) and communication access problems, financial access to health  
367 care is a key issue for a growing number of persons with disabilities. More and more persons with  
368 disabilities are postponing or cancelling<sup>50</sup> necessary treatment.

369 Despite the principles set out in the Charter of the Rights of the Patient, full and correct information to the  
370 patient, in clear language adapted to his or her needs, is not sufficient to guarantee the quality of the care  
371 he or she needs and to<sup>51</sup> enable the patient to exercise his or her free and informed consent to the care  
372 provided to him or her.

373 Further progress is still needed to enable patients to truly access their data. Currently, even if the patient's  
374 file is increasingly updated electronically, it is still very difficult for the patient to consult it<sup>52</sup>.

375 The need for regular and/or extensive care often generates significant concessions in life choices,  
376 sometimes forcing the person to drop out of school or a job .

377 Due to the poor geographical distribution of services, persons with disabilities are sometimes forced to  
378 travel very long distances to access the accommodation or rehabilitation services they need, even though  
379 this is particularly difficult given their disability status.

380 Some persons with disabilities find themselves in living situations that require them to use the services of  
381 providers attached to their place of residence. This is particularly the case for physiotherapy service  
382 providers in some facilities for persons with disabilities.

383 Persons with disabilities with an intellectual quotient (IQ) of less than 85 cannot obtain reimbursement from  
384 the *Institut National d'Assurance Maladie Invalidité (INAMI)* for speech and language therapy services on  
385 the grounds that they can receive them free of charge if they are enrolled in a specialized educational  
386 establishment.

387 In October 2015, the General Delegate for the Rights of the Child, *UNIA* and the *Association Nationale*  
388 *d'Aide aux Handicapés Mentaux* transmitted a recommendation to the Minister of Social Affairs and Public  
389 Health requesting the adaptation of the legislation in question, which has<sup>53</sup> not yet been implemented.

#### 390 **Suggested Questions on Right to physical and mental health:**

- 391 • What concrete measures will Belgium take to ensure that all persons with disabilities have equal  
392 access to the same medical products and medical technologies they need? Will this include the  
393 presentation of possible alternative solutions?
- 394 • In the context of home care, what have the Belgian authorities done to meet the growing need for  
395 home care services: nurses, care assistants, etc.?
- 396 • How does the state integrate access to health care into the general framework of life choices?
- 397 • What concrete measures does Belgium plan to take to broaden the range of rehabilitation services  
398 available, without constraints linked to age, place of residence, schooling or pathology? What  
399 concrete measures are planned to ensure that any persons with disabilities in need of services  
400 such as speech and language therapy can benefit from financial assistance from the *Institut*  
401 *National d'Assurance Maladie Invalidité (INAMI)*, regardless of IQ?

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<sup>50</sup> Conseil Supérieur National des Personnes Handicapées, *La situation de soins et d'accompagnement qui répond aux besoins du patient handicapé...*, Note de position, Septembre-Octobre 2017 ([http://ph.belgium.be/media/static/files/import/soins\\_sante/2017-09-19-note-de-position-cadre-de-soins.pdf](http://ph.belgium.be/media/static/files/import/soins_sante/2017-09-19-note-de-position-cadre-de-soins.pdf))

<sup>51</sup> *Ibid.*

<sup>52</sup> *Ibid.*

<sup>53</sup> [https://www.unia.be/files/Documenten/Aanbevelingen-advies/recommandation\\_logopedie\\_def.pdf](https://www.unia.be/files/Documenten/Aanbevelingen-advies/recommandation_logopedie_def.pdf)



- 402 • What concrete measures does Belgium plan to take to ensure an equitable distribution of  
403 rehabilitation facilities throughout the country, so that all persons with disabilities have access to  
404 them under reasonable conditions, regardless of their disability and place of residence?

405 What concrete measures does Belgium provide for to ensure that a person can call upon the provider of his  
406 or her choice, in accordance with the Charter of Patients' Rights, regardless of his or her place of residence?

## 407 **Right to education (R.26)**

408 Education, both ordinary and specialized, is part of community competence, depending on the linguistic role  
409 of the students. The Flemish, French and German-speaking Communities have put in place regulations that  
410 are evolving in different ways. They aim, as appropriate, at the full or partial inclusion or integration of  
411 children with disabilities into mainstream education while maintaining the existence of non-inclusive special  
412 education.

413 In a logic of gradual transition towards inclusive education and respect for freedom of choice, the BDF does  
414 not oppose the coexistence of these two systems in the years to come.

415 In view of the gap that has developed between the education systems of the three communities, it is  
416 necessary to treat them separately.

### 417 Flemish Community

418 In the Flemish Community, the *M-Decreet* of 2014, supplemented in 2017 by the new support model  
419 (*Ondersteuningsmodel*), established an inclusive general education. This proactive approach is in line with  
420 the logic of UNCRPD. However, some problems have arisen. The two main ones are:

421 The fact that a school has the option of refusing to enrol a child or adolescent with a disability if his or her  
422 inclusion can only be achieved with accommodations that are not "reasonable". Given the vagueness of the  
423 concept of reasonable accommodation, the right to inclusive education is not really guaranteed.

424 The fact that the transfer of teachers and supervisors from special education to inclusive mainstream  
425 education is much more difficult in reality than in theory. Students with disabilities do not always receive  
426 the support they need for inclusive education.

427 Overall, organizations representing persons with disabilities regret that these decrees were put in place  
428 hastily, with limited consultation, without sufficient consideration for the need for transition and without  
429 sufficient information to the persons concerned<sup>54</sup>.

430 As a result, since the 2017-2018 school year, more and more parents want their child with a handicap to  
431 return to special education, even if they had opted for inclusive general education: 770 more pupils in basic  
432 education and 342 more in secondary education in 2017<sup>55</sup>.

433 Flemish regulations still do not provide for the creation of inclusive and bilingual Dutch classes - *Vlaamse*  
434 *Gebarentaal* addressing the needs of deaf children<sup>56</sup>.

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<sup>54</sup> Kinderrechten Commissariaat, *Implementatie M-Decreet: tussentijdse evaluatie*, Knelpuntnota 2015-2016/11,  
<https://www.kinderrechtencommissariaat.be/advies/implementatie-m-decreet-tussentijdse-evaluatie>

<sup>55</sup> AMKREUTZ (R.), *Realitycheck for M-decreet : more children return to special education*, dans *De Morgen*, 8/6/2017,  
<https://www.demorgen.be/dmselect/realitycheck-voor-m-decreet-meer-kinderen-keren-terug-naar-buitengewoon-onderwijs-b71a8e15/?referer=https://www.google.com/>

<sup>56</sup> Vlaams Parlement, Verslag van de hoorzitting namens de Verenigde Commissies voor Onderwijs en voor Cultuur, Jeugd, Sport en Media uitgebracht door Paul Cordy en Orry van de Wauwer over de Vlaamse Gebarentaal, 6 februari 2018,  
<http://docs.vlaamsparlement.be/pfile?id=1378754>



435 A judgment of 7/11/2018 condemned a primary school in the Flemish Community for refusing to enrol a  
436 pupil with Down's syndrome<sup>57</sup>.

#### 437 French Community

438 Since 09/02/2011<sup>58</sup>, the schools of the French Community are obliged to include the concept of integration  
439 of children with special needs in their school projects. Institutions that achieve this integration in practice  
440 are supported throughout the process.

441 The BDF regrets that the French Community is developing its education system on the basis of the notion of  
442 integration and not inclusion as prescribed by the UNCRPD.

443 The number of children enrolled in special education remains very high compared to the number of children  
444 enrolled in inclusive education. BDF also notes that the total number of children with disabilities in  
445 "mainstreaming" doubled between 2012 and 2016. However, this increase mainly concerns pupils in special  
446 education "type 6 (visual impairment) and type 8" (learning disabilities) but not at all pupils in special  
447 education "type 2 (moderate or severe mental retardation)" and "type 5" (illness or convalescence)<sup>59</sup>.

448 Moreover, the implementation of reasonable accommodation remains far from the spirit of the Convention,  
449 as shown by Article 4 of the Decree of 7/12/2017: "...Every pupil in ordinary education ... is entitled to  
450 reasonable accommodation ... provided that his or her situation does not make it indispensable to take  
451 charge of his or her special education"<sup>60</sup>. This almost automatically directs the child to special education.

452 The following paragraph of Article 4 confirms the strictly medical nature of the decision on reasonable  
453 accommodation: "... The diagnosis... is made by a specialist in the medical, paramedical or psychomedical  
454 field...".

455 The French Community is carrying out a major reform of education, the "Excellence Pact". This pact contains  
456 no provisions for inclusive education or special education.

457 The regulatory measures taken do not prevent the persistence of problems in both regular and special  
458 education, often due to a lack of technical, human and financial resources, which are essential for the  
459 development of effective and sustainable education.

#### 460 German-speaking Community

461 In 2009, the German-speaking Community established a special educational support centre for children with  
462 disabilities enrolled in mainstream education<sup>61</sup>.

463 The pedagogical aid for children and adolescents with disabilities offers only 4 hours of pedagogical aid per  
464 child per week in basic education and during the first 4 years of secondary school. For the last two years of

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<sup>57</sup> UNIA, *Première décision reconnaissant le droit à l'éducation inclusive*, 12/11/2018 <https://www.unia.be/nl/artikels/eerste-vonnis-dat-recht-op-inclusief-onderwijs-erkent>

<sup>58</sup> Arrêté du Gouvernement de la Communauté française établissant les listes des implantations de l'enseignement fondamental et de l'enseignement secondaire bénéficiaires de l'encadrement différencié..., modifié par le décret du 9 février 2011 organisant un encadrement différencié au sein des établissements scolaires de la Communauté française, [http://www.gallilex.cfwb.be/document/pdf/36474\\_000.pdf](http://www.gallilex.cfwb.be/document/pdf/36474_000.pdf)

<sup>59</sup> *Les indicateurs de l'enseignement 2017-07*, Tableau 7.4, <http://www.enseignement.be/index.php?page=0&navi=2264>

<sup>60</sup> Décret du 7/12/2017 relatif à l'accueil, l'accompagnement et le maintien dans l'enseignement ordinaire de base et secondaire des élèves ayant des besoins spécifiques, [https://www.gallilex.cfwb.be/document/pdf/44807\\_000.pdf](https://www.gallilex.cfwb.be/document/pdf/44807_000.pdf)

<sup>61</sup> Décret du 11/05/2009 relatif au Centre d'appui à la pédagogie et à l'éducation spécialisée, visant à améliorer l'appui pédagogique spécialisé dans les écoles ordinaires et spécialisées et à encourager le soutien aux élèves ayant des besoins spéciaux ou des difficultés d'adaptation ou d'apprentissage dans les écoles ordinaires et spécialisées, [http://www.etaamb.be/fr/decret-du-11-mai-2009\\_n2009202854.html](http://www.etaamb.be/fr/decret-du-11-mai-2009_n2009202854.html)

465 secondary school, teenagers with disabilities are entitled to 8 hours of tutoring per week. In higher  
466 education, it's 15 hours per week. Only for higher education, this seems to be in line with needs.

467 This decree aims to integrate children with disabilities. It does not follow an inclusive logic. Initially, it was  
468 intended to include special education students in general education. After 10 years, the number of children  
469 in special education does not decrease...

#### 470 At the level of the three communities

471 While all three communities have some useful initiatives in place, there is a lack of places for children with  
472 disabilities and a lack of sufficient resources to do so: UNIA receives regular reports from children with  
473 disabilities that highlight the difficulty of obtaining reasonable accommodation in school<sup>62</sup>. UNIA has  
474 published a "Barometer of Diversity in Education" in this regard<sup>63</sup>.

475 The territorial grid established by special education institutions does not allow every child to receive  
476 appropriate education within a reasonable distance from his or her home, and special education institutions  
477 are often located in areas with poor public transport links. The dilemma for the family is often to put their  
478 child through long journeys or to move with the consequences for the child, but also for the other members  
479 of the family: uprooting, professional difficulties, loss of the social network.

#### 480 **Suggested Questions on Right to education:**

- 481 • What concrete measures does Belgium plan to put in place a coherent strategy of inclusive  
482 education for children with disabilities, allocating sufficient financial, material and human  
483 resources?
- 484 • What concrete measures have been implemented by Belgium to ensure a quality transition from  
485 special education to inclusive education? Is there any planning for this transition? If so, what are the  
486 main lines of action? Is the move towards inclusive education being made equally for all situations  
487 of disability? Are organizations of persons with disabilities involved in the whole process?
- 488 • What concrete measures does Belgium plan to take to ensure that inclusive education is part of  
489 teacher training?
- 490 • What concrete measures does Belgium plan to take to enable pupils with disabilities to choose the  
491 education that best suits them and to provide them with full, correct and accessible information in  
492 appropriate formats on the various options available to them? In the educational institution chosen,  
493 what measures will enable the student to receive an appropriate response to his or her need for  
494 support, guidance and appropriate teaching methods, including inclusive bilingual education in sign  
495 language, to enable him or her to obtain a qualification?

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<sup>62</sup> UNIA, *À l'école de ton choix avec un handicap: les aménagements raisonnables dans l'enseignement*, Bruxelles, 2019, <https://www.unia.be/fr/publications-et-statistiques/publications/lecole-de-ton-choix-avec-un-handicap-les-amenagements-raisonnables-dans-lenseignement>

<sup>63</sup> X., *Baromètre de la diversité: Enseignement (2018)*, Bruxelles, 2018, <https://www.unia.be/fr/publications-et-statistiques/publications/barometre-de-la-diversite-enseignement>